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ABSTRACT

The manual presents Louisiana's policies and guidelines for assigning and monitoring surrogate parents for handicapped children. The first section presents guidelines for administrators regarding the program's organization (interagency relations, needs assessments, and child eligibility) and the program's services (recruitment, screening, training, matching, monitoring, technical assistance, and case management). The second part, the surrogate parent training manual, includes information on the following topics: P.L. 94-142 (the Education for All Handicapped Children Act), Section 504 of the Rehabilitation Act of 1973, and Louisiana state law; a free, appropriate public education; identification, location, and evaluation; the individualized education program; the least restrictive educational environment; procedural safeguards; and the role, qualifications, and responsibilities of surrogate parents. Among 20 appendixes are a sample interagency agreement, flow charts for various program aspects, and numerous sample forms. (CL)

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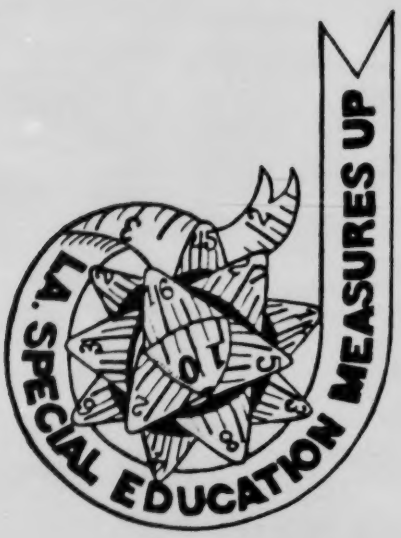

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Louisiana State Department of Education

J. Kelly Nix, State Superintendent

1980

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SURROGATE PARENT MANUAL

State of Louisiana

Bulletin 1559

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It encompasses the untiring efforts of many persons and organizations who have contributed materials, time, and energy to making it an informative public document.

Luis Campos
Project Director

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Project Officer

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Introduction

INTRODUCTION

This manual is designed for administrators of Local Education Agencies (LEA's) and Special School District Number 1 (SSD No.1) and for Regional Coordinators to use as a guide to surrogate parent procedures. It deals with those aspects of basic organizational and operational planning necessary to establish a surrogate parent program. The manual describes procedures and guidelines helpful to administrators of special educational services who are addressing the supervisory implications of assigning surrogate parents to eligible children.

A number of factors should be taken into consideration in designing cost efficient, practical procedures: geographic size of the parish or parishes, number of school-aged children, number of children eligible for special education, number of children eligible for surrogate parent assignment, and, community resources. Assessment of these factors may indicate which approach best serves a given locality -- a regional program, or parish-based programs.

BACKGROUND

BACKGROUND

Actions by the judicial and legislative branches of the United States government have resulted in a national goal of providing all handicapped children with equal educational opportunities. The following is a brief review of litigation and legislation:

1954 Brown vs. The Board of Education of Topeka, Kansas, 347 US 483.

A challenge to segregation in the public schools on the basis of race.

1972 PARC vs. The State of Pennsylvania, 343 F. Supp. 279.

"A mentally retarded person can benefit...from a program of education."

1972 Mills vs. Board of Education of the District of Columbia, 348 F. Supp. 866.

This decision was based on the "due process" and "equal protection" clauses of the 5th and 14th Amendments to the United States Constitution. This led to the argument that there is a constitutional right to an education.

In 1973 Congress passed the Vocational Rehabilitation Act, 29 USC 794. Section 504 of this Act prohibits discrimination on the basis of handicapping conditions under any program or activity receiving financial assistance. Title VI, the Elementary and Secondary Education Act of 1966, began a program of grants to the states to assist in the education of handicapped children. On July 1, 1971, Title VI was repealed

by Public Law 91-230, the Elementary and Secondary Education Amendment of 1970. P.L. 91-230 created a separate Act entitled The Education of the Handicapped Act. In 1974 Congress passed Public Law 93-380 which extended the Education of the Handicapped Act (EHA). Part B of P.L. 93-380 was amended in 1975 with the enactment of Public Law 94-142. The cases of Brown, PARC, and Mills are noted as supportive of the argument that all persons have an equal right to education.

In 1977 the Louisiana legislature amended and reenacted Louisiana Revised Statutes, Title 17, Chapter 8, Sections 1941 through 1957 with the passage of Act 754. Its purpose is to: "...assure and require that the state shall fund a program of special education and related services for the exceptional children of this state..."

The state law conforms with and carries out the intent of P.L. 94-142. Implementing regulations were published in August of 1978.

The state and federal laws and regulations serve as guidelines for the provision of special education and related services. The actual implementation of statutory mandates in the real world contributes a major portion to the process of policy formation.[1]

Rights of Exceptional Children[2]

The Louisiana State Regulations (§ 472) list the rights of exceptional

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[1]Abridged from The Surrogate Parent: A Legal Handbook, Louisiana Center for the Public Interest, New Orleans, 1978.

[2]Paraphrased from the Louisiana State Regulations, Section 472

children (and parents on their behalf). These include:

A. Make illegal discrimination on the basis of handicap;

B. Be provided a free appropriate public education;

C. Receive an independent educational evaluation at public or private expense depending on the merits of the cases;

D. Have careful consideration given to the results of an independent evaluation by the school board (or Special School District No. 1) with respect to the provision of an appropriate free public education;

E. Inspect and review all relevant records with respect to the identification, evaluation, and placement of the child and the provision of an appropriate free public education;

F. Initiate a hearing on any action for which notice is required but formal parental approval is not required;

G. Be given the opportunity for an impartial hearing with opportunity for direct participation; representation by council, and other procedural rights;

H. Present complaints to the school board and/or the Department of Education relating to identification, post-identification decision, evaluation or educational placement, or to the provision of an appropriate free public education;

I. Remain, if already enrolled, in the current educational placement, pending final decision of the hearing and review process, unless the parents and agency agree otherwise;

J. If not enrolled, be placed, with the consent of the parents, in the public school program operated by a schcol board until

a final decision of the hearing and review process;

K. Have a surrogate parent assigned by the school board when appropriate;

L. Be provided, by the evaluation coordinator or designee, with a copy of the full written explanation and findings of the individual evaluation as soon as it is completed together with a full oral explanation (effectively communicated) of both the findings and the recommendations;

M. Be provided a personal consultation with a member of the multidisciplinary team;

N. Receive full and effective notice of proposed actions as provided in the procedural safeguard section of the regulations;

O. Provide formal parental approval or disapproval as provided in the procedural safeguard section of the regulations;

P. Be informed of any free or low-cost legal and other relevant services available if a hearing is initiated or upon request;

Q. Know the qualifications of the teacher or teachers to be assigned under any proposed educational placement.

Procedural Safeguards[1]

In addition to these rights, federal and state regulations prescribe specific safeguards to secure the rights of exceptional children when Local Education Agencies (LEA's) provide special education to the child:

1. The rights to protection from discriminatory testing in the

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[1]Paraphrased from state and federal regulations.

assessment and evaluation process

2. The right to full and effective notice and parental consent
3. The right to inspect and review all educational records, and the right to confidentiality of information
4. The right to an impartial hearing and all due process rights
5. The right to appeal
6. The right to have a surrogate parent assigned by the school board when appropriate

Surrogate Parents

Since these rights and safeguards are shared by all exceptional children, the laws have made provisions for those children who do not have parents or guardians to act on their behalf. The sections of the laws and regulations that relate to assignment of surrogate parent are listed on the following pages.

Federal Law and Regulations

Procedural Safeguards: surrogate parents

Public Law 94-142

"Sec. 615. (a) Any State educational agency, any local educational agency, and any intermediate educational unit which receives assistance under this part shall establish and maintain procedures in accordance with subsection (b) through subsection (e) of this section to assure that handicapped children and their parents or guardians are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies and units.

"(b)(1) The procedures required by this section shall include, but shall not be limited to

(among others):

..."(B) procedures to protect the rights of the child whenever the parents* or guardian of the child are not known, unavailable, or the child is a ward of the State including the assignment of an individual (who shall not be an employee of the State educational unit involved in the education or care of the child) to act as a surrogate for the parents or guardian;

Federal Regulations (Sec. 121a 514)

(a) General. Each public agency shall insure that the rights of a child are protected when:
(1) No parent* (as defined in § 121a. 10) can be identified;
(2) The public agency, after reasonable efforts,

State Law and Regulations

Procedural Safeguards: surrogate parents

Act 754

§ 1952. Parental participation; procedural safeguards.

A. The Department of Education, with the approval of its governing authority, shall prepare regulations providing that parents of exceptional children shall be involved in the determination of appropriate special education and related services for their children.
B. Safeguards to guarantee the rights of parents and exceptional children shall include the following:

(among others):

...(2) Procedures to protect the rights of the child when the parent* or guardian is not known, unavailable, or is in the custody of a state agency, including the designation of a parent surrogate to act in the place of a parent or guardian.

Act 754 Regulations (§ 474)

Surrogate Parents

(a) Whenever a school board after repeated and reasonable efforts is unable to identify and locate a parent* of an exceptional child, or of a child suspected to be an exceptional child, or whenever a child is a ward of a court, the school board must assign an individual to act as surrogate parent who may represent the child in all matters relating to the identification, individual evaluation and educational placement of the child and

Federal Law and Regulations continued:

cannot discover the whereabouts of a parent; or
(3) The child is ward of the State under the laws of that State.
(b) Duty of public agency. The duty of a public agency under paragraph (a) of this section includes the assignment of an individual to act as a surrogate for the parents. This must include a method (1) for determining whether a child needs a surrogate parent, and (2) for assigning a surrogate parent to the child.
(c) Criteria for selection of surrogates.
(1) The public agency may select a surrogate parent in any way permitted under State law.
(2) Public agencies shall insure that a person selected as a surrogate:
(i) Has no interest that conflicts with the interests of the child he or she represents; and
(ii) Has knowledge and skills, that insure adequate representation of the child.
(d) Non-employee requirement; compensation.
(1) A person assigned as a surrogate may not be an employee of a public agency which is involved in the education or care of the child.
(2) A person who otherwise qualifies to be a surrogate parent under paragraph (c) and (d)(1) of this section, is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.
(e) Responsibilities. The surrogate parent may represent the child in all matters relating to:
(1) The identification, evaluation, and educational placement of the child, and
(2) The provision of a free appropriate public education to the child.

State Law and Regulations continued:

the provision of an appropriate, free public education.

(b) A method for determining whether a child needs a surrogate parent and for assigning a surrogate parent must be developed and implemented by each school board in a manner which insures that:
(1) A person assigned as a surrogate parent has no interest that conflicts with the interests of the child, and is not a present or past employee of the school board involved in the education or care of the child; and

(2) The person assigned has knowledge and skills that insure adequate representation of the child.

(c) Payment of fees for service as a surrogate parent does not, in and of itself, render a person an employee.

*Parent - Federal regulations § 121a.10

> "As used in this part, the term 'parent' means a parent, a guardian, a person acting as a parent of a child, or a surrogate parent who has been appointed in accordance with § 121a.514. The term does not include the State if the child is a ward of the State.
>
> "Comment. The term 'parent' is defined to include persons acting in the place of a parent, such as a grandmother or stepparent with whom a child lives, as well as persons who are legally responsible for a child's welfare.
>
> Louisiana's regulations (§ 966) add to the above definition: "...provided that the rights and responsibilities of a parent established by this Regulation shall be exercised directly by an exceptional child who attains the age of eighteen years unless such child has been interdicted or determined to be in continuing minority by a court of the State of Louisiana."

As a result of the judicial and legislative process, education has become a basic constitutional right. Education is to be provided to all in this country, at public expense, with no discrimination on the basis of race, creed, nationality, sex, or handicap.

Within the responsibilities of the educational systems of this country and state in providing a special education to its handicapped or exceptional children, there is a duty and responsibility to insure that all exceptional children share equally in the law's defined rights and protections.

SURROGATE PARENT PROGRAM
ADMINISTRATOR'S MANUAL

Several states in this country - Massachusetts, Connecticut, Vermont, among others - are operating independent surrogate parent programs. (The term "independent" refers to a program operating apart from the State Education Agency and the Local Education Agency.) In these states a conscious effort has been made to avoid any conflicts of interest that might exist between a Local Education Agency (LEA) and the assigned surrogate parent.

While it remains an LEA option to operate the program within its own area of jurisdiction (i.e., parish school board), it may prove more practical to form a consortium of parishes with one regional program serving the parishes in that region.

There follows a description of a model containing the major components and functions of a surrogate parent program. The model addresses the two broad mandates of state and federal regulations:

1. that a method be designed for determining whether a child is in need of a surrogate parent, i.e., eligibility of the child; and
2. that a method be designed for the assignment of a surrogate parent, i.e., assignment procedures.

The Louisiana regulations, implementing Act 754, place the responsibility on the school boards (and Special School District No. 1 where appropriate) for designing these procedures as well as providing all special

educational services for exceptional children within their jurisdiction. This is true even if the child is placed in a Special School District No. 1 (SSD No. 1) facility (La. reg. sec. 401). SSD No. 1 must, nontheless, assume joint responsibility with the school board for providing these services (La. reg. sec. 570).

It is more practical for the school boards and Special School District No. 1 to maintain separate assignment procedures.

1. A school board (though its designee, such as the Parish Supervisor) authorizes the assignment of surrogate parents to children receiving services directly from the parish, and
2. The Director of Special School District No. 1, or his designee, authorizes the assignment of surrogate parents to children enrolled in SSD No. 1 facilities.

I. Organizational components

A. The interagency agreement, or contact, delineating the tasks of the LEA and the Surrogate Parent Program (SPP) must be confirmed by action of the local school board, if the LEA chooses to use an independent agency to operate the program. Signatures should be secured from the president of the local school board, the Superintendent of Education, the Supervisor of Special Education and the Program Coordinator. The interagency agreement, or contract between the LEA and the Surrogate Parent Program should include the following:

1. That the LEA determines whether an identified child, or a child suspected of being exceptional, is in need of a surrogate parent
2. The criteria for determining such a need
3. That the Program performs certain services for the LEA, for example:
   a. Recruitment and screening of volunteers and foster parents
   b. Training of volunteers and foster parents with respect to the special education process and exceptional children's rights
   c. Matching of eligible children with trained volunteers or foster parents
   d. Monitoring of and technical assistance to surrogate parents
   e. Case management of referred and matched children
   f. Interagency coordination and in-service training with regard to surrogate parent requirements and procedures
4. A description of the assignment procedure. For example:
   a. The Program Coordinator, having confirmed the eligibility of the child, shall recommend appointment of a surrogate parent
   b. The Program Coordinator shall submit the name of the proposed surrogate parent and of the child in a form/letter to the LEA
   c. The LEA shall authorize or reject the candidate submitted

by the Program

d. The LEA may keep a copy of the letter and return the original to the Program

e. Upon receipt of the signed original, the Program shall submit copies to:

(1) the school principal, or agency head where the child is to receive educational services, if known

(2) the foster care caseworker

(3) the referral source

(4) the surrogate parent

(5) other appropriate persons

5. That the Program maintains a record of match letters, referrals, applications and all relevant material for each matched child

B. Interagency linkages:

1. All public and private agencies which serve children must be contacted. Lines of communication must be established so that identified children may be referred to the LEA Child Search Coordinator. The local school board and SSD No. 1 are ultimately responsible for locating children in need of surrogate parents. Referrals must come to the Program through the LEA, or Special School District No. 1. However, in the interest of expediency, a permissible option may be to send referrals of eligible children to the responsible LEA, or Special School District No. 1, and to the Program simultaneously.

2. The service delivery of the Surrogate Parent Program is greatly facilitated when it can enlist cooperation, regarding referral procedures from the following network of child service agencies:

   a. The LEA: Parish supervisors of special education, evaluation coordinators, child search coordinators, school principals, teachers, counselors, etc.

   b. Special School District No. 1

   c. The Office of Human Development: supervisors and caseworkers

   d. The Division of Youth Services

   e. The Division of Mental Retardation: supervisors, social workers, teachers, etc.

   f. Private Providers: administrators, teachers, etc.

   g. The Division of Hospitals

   h. The Department of Corrections

   i. Schools operated by the State Board of Elementary and Secondary Education (i.e., the School for the Deaf, School for the Visually Impaired, etc.)

   j. Other child service and exceptional children service providers

3. It is essential that all personnel who are most likely to come in contact with the target group understand the requirements of the procedural safeguard sections of the law. It must be communicated to these personnel that it

is an LEA and SSD No. 1 responsibility to assign a surrogate parent to a child whose parents* are unknown or unavailable, or a child who is a ward of the state or court before any special education-related activity that would normally require full and effective notice and formal parental consent takes place.

C. Need assessment. A key component in the organization of any program is a need assessment. The Surrogate Parent Program, with the assistance of the Local Education Agency, Special School District No. 1, and the Office of Human Development (OHD), should conduct a count of those children who are eligible to have a surrogate parent assigned and who--

1. Are currently receiving special educational services
2. Are in the Process of receiving special education services (e.g. awaiting their first evaluation), or
3. Are suspected of needing special educational services

D. Determining whether a child is in need of a surrogate parent (eligibility)

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*Parent - State Regulations, § 966: " 'Parent' means a parent a guardian, a person acting as a parent of a child, or a surrogate parent who has been appointed in accordance with Subpart 474; provided that the rights and responsibilities of a parent established by this Regulation shall be excercised directly by an exceptional child who attains the age of eighteen years unless such child has been interdicted or determined to be in continuing minority by a court of the state of Louisiana."

Note: The federal regulations in a comment following the definition of "parent" (§ 121a.10) state that "The term 'parent' is defined to include persons acting in the place of a parent, such as a grandmother or stepparent with whom the child lives, as well as persons who are legally responsible for a child's welfare." The federal definition of parent excludes the state if the child is a ward of the state.

1. Normally, when a child is located and identified as a candidate for special education--

   a. The personnel involved in the child's education or care must contact the parent or guardian to obtain formal consent for a proposed assessment program, evaluation, education program, or placement.

   b. The parent or guardian has the option to authorize or refuse the proposed action.

   c. The proposed action is then initiated, or an attempt is made to resolve the conflict.

2. However, if there is reason to believe that the parent (as defined by federal and state regulations) or guardian is not known or is unavailable, the personnel involved in the education or care of the child must make repeated and reasonable efforts to locate the parent or guardian at the last known residence, by telephone, by personal visit, by mail, and finally, by certified letter. These efforts should be documented.

   a. A surrogate parent must be appointed--

      (1) if these efforts are unsuccessful in locating the parent(s) of the child, or

      (2) if the parent or guardian has severed contact*

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*An opinion on this particular issue is currently being sought from the Louisiana Attorney General's office. The inclusion of this procedure will be determined by the opinion rendered.

Assignment of a surrogate parent to a child whose parents have "severed
(Continued)

with the child and has written that he/she consents to the appointment of a surrogate parent to represent the child in the special education process

b. A surrogate parent must also be appointed IF--

(1) the child has been removed from the custody of the parent or guardian by a court of legal jurisdiction, and legal custody has been awarded to a state agency, and

(2) IF the child is residing in a foster home, a group home, institution, a state school for the mentally retarded, a state hospital, etc. Not all children in institutions must be assigned a surrogate parent, only those meeting the criteria in "a" or "b".

3. When the Program receives a request for a surrogate parent, the above parent search procedure must be confirmed. If it has not taken place, the Program must refer the child

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contact" would take place only under the following circumstances:

1. Pending the attorney general's opinion,
2. If the parent is not and has not been in contact with the child and has not demonstrated interest or involvement in the child's educational needs over an extended period of time (months, years),
3. The parent would be asked in writing for authorization to assign a surrogate parent to his/her child,
4. The parent agrees to hold the surrogate parent harmless with regard to the conscientious exercise of his/her responsibilities as a surrogate parent,
5. The parent is effectively informed that his/her consent to the assignment of a surrogate parent is revocable; and that should the parent wish to become actively involved in representing his/her child in the special education process, the arrangement with the appointed surrogate parent may be terminated.

to the LEA for the completion of the procedure.

4. It should be noted that neither P.L. 94-142 nor Act 754 includes as eligible a child whose parent, while residing with the child, or geographically available, is simply uncooperative.

II. Surrogate parent program services

A. Recruitment

1. The maintenance of a volunteer pool is an ongoing task of the Surrogate Parent Program. The recruitment effort can be most successful if SPP personnel address community groups in person. Careful planning enhances the chances for success:

a. Compile a mailing list of common interest groups, e.g., the Association for Children with Learning Disabilities, the Association of Retarded Citizens, PTA's, Title I Mothers, Kiwanis Clubs, etc.

b. Mail introductory material to these groups

c. Follow-up with telephone or personal contact to set up a presentation before the group by a SPP representative

2. When addressing a group, make a clear presentation of:

a. The Program's purpose

b. Responsibilities of the surrogate parent

c. Time commitment

d. The training required

B. Screening

1. The screening procedure should be guided by the idea that a surrogate parent is a representative of an exceptional child in regard to his/her educational rights. To be eligible as a surrogate parent a person must meet specific statutory criteria:
   a. Cannot be a present of past employee of the school board involved in the education or care of the child
   b. Cannot be an employee of the Public Agency involved in the education or care of the child ("Public Agency" includes the State Educational Agency, local educational agencies, intermediate educational units, and any other political subdivisions of the state which are responsible for providing education to handicapped children, Fed. reg. § 121a.11)
   c. Must have no interest that conflicts with the interests of the child
   d. Must have adequate knowledge and skills to insure adequate representation of the child
2. In addition, there are some qualities which the surrogate parent should possess:
   a. Be an adult 18 years or older
   b. Be a person who is actively concerned with the rights of children
   c. Be a person who can take time away from his/her normal routine to attend meetings related to the

evaluation, educational program, placement, or negotiations of services for the child

d. Be a person who can be assertive in representing the child

e. Have the ability to conceptualize and participate intelligently in the evaluation, Individualized Education Program (IEP) and placement meetings; must be able to use facts and information to make good decisions regarding the provision of a free appropriate public education for the child

3. Foster Parents --

If a child is referred by a caseworker in foster services, the caseworker is asked whether or not he/she recommends the foster parent to serve as a surrogate parent. According to Louisiana law, foster parents are not legal guardians, and therefore lack legal authority to represent their foster child's educational interests. The service contract between the Office of Human Development and the foster parent states specifically that:

> The provider foster parents agree to the following: ...to help the Office of Family Services carry out its responsibility for this child by...consulting the worker before making important decisions... Also "Not to make plans for this child's welfare except with concurrence of the Office of Family Services..." (La. OFS form 427, Rev. 10/77)

The state agency (OHD) maintains custody of the child and authority to decide matters relating to education. Although a caseworker is a child advocate, the average child caseworker

must manage a caseload of 30 to 60 children. Moreover, the caseworker is an agent of an agency that may be responsible for payment of special educational related services.

A foster parent, on the other hand, is not an employee of the state and could be a strong advocate for the child's education. To exclude the foster parent from acting officially on behalf of his/her foster child is to overlook the nearest approximation of a parent that the child has. The LEA is obligated to insure that the person appointed as surrogate has the necessary knowledge and skills to adequately represent the child. The LEA can meet this requirement by offering training to the foster parent through a Surrogate Parent Program. While foster parents may thus be given primary consideration, they may not be summarily assigned as surrogate parents. They must undergo the same screening and training procedures required of volunteers.

Foster parents officially assigned as surrogate parents by SSD No. 1 or by the LEA are thereby authorized to represent their exceptional foster child and make decisions in all matters relating to the identification, IEP development, placement, and the provision of a special education and related services. Foster parents assigned as surrogate

parents are encouraged to maintain contact with their OHD caseworker. However, it must be emphasized that foster-surrogate parents need not have the concurrence of OHD to represent their assigned child in the special education process.

4. The screening procedure carried out by the Program should include:
   a. Review of an application filled out by the candidate
   b. At least two letters of recommendation endorsing the candidate
   c. A personal interview with the candidate at which time several points are discussed:
      (1) duties of a surrogate parent
      (2) the recommended time of commitment (one year)
      (3) previous experience with or knowledge of handicapping conditions and the special education process

C. Training

1. The surrogate parent can be truly effective only if she/he has knowledge and skills that assure adequate representation of the child. Training sessions of at least three hours should be set up by the Program at times convenient to the volunteers. Training instructors can be located at universities, community agencies, the SPP staff, and can include matched surrogate parents who have had experience in representing a child.

The training should include:

a. The responsibilities of the surrogate parent--

(1) to represent the handicapped child in all aspects of the educational decision-making process concerning that child. This includes identification, individual evaluation, educational placement and the provision of a free appropriate public education.

(2) to become acquainted with the child's educational needs by

(a) observing and speaking with the child

(b) reviewing educational records

(c) reviewing samples of the child's work

(d) speaking with teachers, instructors, counselors, child care workers, caseworkers, etc.

(3) to comply with state and federal law concerning confidentiality of all records and information that pertain to the child and to which the surrogate parent is privy

(4) to use discretion in sharing information with appropriate people for the purpose of furthering the interests of the child

(5) to insure that evaluation and IEP sessions are conducted by representatives from appropriate disciplines

(6) to receive effective notice of the child's entry into the initial screening process, and become informed of the results (i.e., read the report, meet the teacher(s), etc.)

(7) to decide if a proposed assessment program is appropriate

(a) if so, to sign a consent for that assessment program, and to assure the child receives an appropriate assessment

(b) if not, to document reasons for refusing to consent

(8) to be available for an interpretation of the results of the assessment program and obtain a clear understanding of findings and recommendations

(9) to proceed in the same manner as described in paragraphs No. 6, No. 7, and No. 8 for an individual evaluation and/or medical assessment

(10) to represent the child at the IEP conference and to participate in the IEP development by making contributions based upon the surrogate parent's investigation of the child's educational needs. For instance, to discuss the child's behavior, special habits, how the child gets along with siblings and other children, the child's likes and dislikes, how the child compares in size with other children his/her

age, the child's motor development, and the child's self-help skills. The surrogate parent participates also by giving suggestions and recommendations in defining educational goals and objectives, and the desirable ultimate outcome for the child; and by giving other observations that may help in developing the child's individual education program.

(11) to represent the child in the educational components of the Individual Program Plan (IPP), Individual Service Plan (ISP), Individual Habilitation Program (IHP), Individual Written Rehabilitation Program (IWRP), or Individual Treatment Plan (ITP)

(12) to sign the first page of the IEP form to indicate attendance at the meeting

(13) to sign where indicated on the IEP form to give formal approval of the proposed placement or not give approval of placement if the surrogate parent does not approve of the placement

(14) to call for a new evaluation or IEP whenever necessary

(15) to receive the child's short-term goals and/or report cards in order to monitor his/her progress

(16) to participate in an annual review of the child's IEP

(17) to negotiate with the LEA if there is disagreement with regard to any of the above

(18) to call for a due process hearing if all conciliatory avenues have not brought about a resolution of a disagreement concerning identification, evaluation, or educational placement of the child; or the provision of a free appropriate public education to the child

(19) to represent the child at a due process hearing and throughout the appellate procedures, for example:

(a) first, to attempt to conciliate disagreements with the school board, i.e., to meet with school officials and work at resolution of difference based on the child's needs--as expressed by evaluators, teachers, doctors special education professionals, etc.--and determine what can be reasonably provided by the school system and other agencies

(b) to follow the complaint procedures available as a right to exceptional children if conciliatory meetings fail

(c) to request in writing a due process hearing through the parish supervisor of special education

(d) to make an orderly presentation of facts at the due process hearing. It may be advisable to seek counsel or the help of someone experienced in due process hearings.

(e) to gather or help to gather useful data, letters, evaluations, records, and other factual evidence that would aid in the presentation of the child's case

(f) to mobilize the resources needed for a fair, adequate, and factual presentation of the child's case

(g) to abide by the rules outlined by the hearing officer

(h) to abide by the recommendation of the hearing officer, or

(i) to appeal the case to the State Board of Elementary and Secondary Education for a review if the surrogate parent feels the child is aggrieved by the findings and decision at the hearing

(j) if the surrogate parent feels the child is aggrieved by the findings and decision of the state review, he/she has the right to bring a civil action in any state court of competent jurisdiction or in district court of the United States

(20) to periodically report to the SPP his/her activities relating to the representation of the child

NOTE:

Surrogate parents are responsible and have authority

solely with regard to the special educational aspects of their assigned child. A surrogate parent's authority is limited to the educational program and the educational placement within that educational program. Although a surrogate parent may be present and participate in the staffings of an ITP, ISP, IPP, IHP or IWRP, only the educational aspects (those related services that would affect or benefit education) are within the range of responsibility of the surrogate parent. At no time should a surrogate parent authorize medical treatment plans. Moreover, residential placement is decided by the Office of Human Development (OHD) through the Regional Review Committee of the OHD client placement system. Residential placement may be considered for those students whose human service needs require a twenty-four hour program of active treatment care, and/or habilitation.

The surrogate parent's input is required at the time the child's IEP is developed, whether it is before or after residential placement.

The child's educational placement may be within the residential facility if

1. The type of education program described in the finalized IEP can only be provided at the residential facility, and
2. If it is jointly agreed at the IEP conference that such an educational placement would be appropriate for the student and would be within the Least Restrictive Environment

The child's educational placement may be outside of a residential facility if

1. The type of education program described in the finalized IEP cannot be provided at the residential facility, and/or
2. The education described in the IEP can be provided in a regular school setting, with support services, and
3. It is jointly agreed at the IEP conference that such an educational placement would be appropriate for the child and would be the Least Restrictive Environment

The training should also include:

b. The special education process
   (1) a brief review of the law
   (2) handicapping conditions
   (3) special educational and related services
   (4) identification and screening, educational assessment, medical assessment

(5) the individual evaluation

(6) individual education program and placement

(7) the child's rights

(8) least restrictive alternative

(9) surrogate parent's roles, responsibilities, and rights

(10) conciliation and due process

D. Matching--

The matching process should be guided by the spirit of the law which states that the "...public agency shall insure that the rights of a child (be) protected..." The needs of the child should, therefore, be ever present in this procedure.

1. Adherence to all statutory guidelines with regard to freedom from conflict of interest, employment status, knowledge and skills, etc.
2. Agreement by the volunteer that he/she feels comfortable and competent in representing the child in light of the child's
   a. handicapping condition
   b. age
   c. sex
   d. race and ethnic background
   e. place of residence
   f. school or institution from which services are sought, if known
3. Familiarization of the child who does not know his/her

surrogate parent with the role that person plays in the educational process

4. Once officially assigned by the LEA, the surrogate parent should receive a letter of appointment which identifies him/her as the dutifully assigned surrogate parent. The surrogate parent is to be given the cooperation accorded to a biological parent in all matters relating to the identification, individual evaluation, and educational placement of the child and the provision of an appropriate, free public education.

E. Monitoring--

1. The purpose of monitoring is to maintain quality control of Program services. An SPP should incorporate monitoring on two levels: program adminstration and program services.

a. Program administration

(1) One effective mechanism for monitoring program administration is by use of a third-party evaluator

(2) An Advisory Committee is another effective mechanism for monitoring program administration. The Committee can play its role as monitor by:

(a) periodically reviewing completion of Program objectives

(b) making recommendations that facilitate reaching program objectives

(c) assisting in creating a public awareness of Program services; assisting the Program in recruitment efforts

(d) offering expertise in technical aspects of laws and child service systems

(e) being available as a backup pool of "experts" for surrogate parents

(3) The committee should be representative of consumers, advocates, and service providers from the community. At a minimum it should include representatives from:

(a) the State Education Agency (SEA)

(b) the LEA: teachers, counselors, principals, etc.

(c) the Office of Human Development: supervisors, caseworkers, etc.

(d) volunteer advocacy groups: the Association of Retarded Citizens, Council of Exceptional Children, Association of Children with Learning Disabilities, etc.

(e) advocacy agencies: Legal Aid, Children's Councils, attorneys from Juvenile Court, etc.

(f) consumers: parents or relatives of handicapped persons, handicapped persons, etc.

b. Program services

Monitoring of Program services should be conducted directly by Program staff. Periodic contact with surrogate parents should be carried out to assure

that the children are receiving the educational services they need. Each surrogate parent should have an individual case record listing dates and activities related to the representation of a child. If time and manpower permit, the program staff could observe a surrogate parent perform his/her duties, while at the same time be available as a resource person for the surrogate.

F. Technical assistance

1. The monitoring process is most productive when there is a two-way dialogue. Surrogate parents who have attended training workshops cannot be expected to have obtained all the information they need for addressing the individual needs of their assigned children. To assure quality of service to those children, the Program must assist the surrogates by providing them with information, resources and strategy, as needed, for assuring the assigned children of the appropriate educational services. The Program can do this by offering expertise, and information and referral to surrogate parents.

2. Group meetings of surrogate parents serve a valuable function in providing technical assistance. A group meeting can take the form of a follow-up training session, an experience exchange, or it can serve as a forum for addressing specific issues. Moreover, a group meeting can

provide the Program with valuable feedback that can be used for future Program planning and strategy.

G. Case management

Maintaining records and an accurate account of surrogate parent services require management of the cases generated by each referral and assignment. At a minimum case management includes:

1. Double checking some vital points on the referral form, for example:
   a. child's residence status
   b. date of court action for those in the custody of state
   c. immediate special education needs
   d. checking with foster parent to determine if a good surrogate parent candidate, etc.
2. Locating a volunteer surrogate parent when a foster parent is not available or appropriate
3. Screening interviews
4. Planning for training sessions of surrogate parent candidates
5. Matching interview
6. Processing the assignment form/letter and other correspondence related to each case to all appropriate persons and agencies
7. Follow-up contacts, monitoring, and technical assistance

SURROGATE PARENT TRAINING MANUAL

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Introduction

INTRODUCTION

WHERE ARE WE AND HOW DID WE GET HERE?

I. Background Information - Federal Case Law and the Constitutional Basis for the Right to Education.[1]

Until the 1950's there were few or no adequate services for the mentally retarded and other handicapped persons. Court action and legislation gradually resulted in changes in public policy with regard to education and care of the handicapped.

A. Equal Education to all regardless of race, 1954.

In 1954, the case of Brown vs. the Board of Education of Topeka, Kansas (347 U.S. 483) was decided. This important case has been credited with laying the foundation for the development of a right to education for handicapped children. Faced with a challenge to segregation in the public schools on the basis of race, the Supreme Court stated:

> In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

B. Equal educational opportunity for the mentally handicapped, 1972.

Almost twenty years later, in PARC vs. the State of Pennsyl-

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[1]Legal and federal legislative background excerpted from The Surrogate Parent: A Legal Handbook, Louisiana Center for the Public Interest, New Orleans, 1978.

vania (343 F. Supp. 279 (1972), the basic principle of equal opprotunity for education was advanced on behalf of mentally handicapped children who were being denied the right to an appropriate education. In its decision, the court noted that: "a mentally retarded person can benefit at any point in his life and development from a program of education."

C. No exclusion from regular classes without "due process," 1972.

About the same time, another court ruled, in the case of Mills vs. Board of Education of the District of Columbia (348 F. Supp. 866), that no child could be excluded from a regular school assignment unless adequate alternative education services suited to the child's needs were provided. The court further ruled that the child was entitled to a constitutionally adequate prior hearing and periodic review of the educational program.

The court in the Mills decision explicitly based its decision on the "due process" and "equal protection" clauses of the 5th and 14 Amendment of the U.S. Constitution. Under the "due process" clause, no person may be deprived of "life, liberty, or property" without "due process of law." This basically means that whenever the goverment attempts to restrict or deny a person of a fundamental right (life, liberty or property) the goverment must satisfy certain basic requirements to insure fairness,

such as giving the person notice and an opportunity to be heard at an impartial hearing. The "equal protection" clause of the 14th Amendment guarantees equal protection under the law and insures like treatment of all persons under like circumstances and conditions, both in privileges conferred and liabilities imposed.

Together, these two concepts form the argument for a constitutional right to an education. A child classified as handicapped and placed in a special class or excluded from school is denied due process if school authorities fail to utilize fair procedures in making such a determination. Likewise, the unjustified exclusion of any child from public education denies that child equal protection of the law if the state offers educational programs non-handicapped children (i.e., in those ages that non-handicapped are provided free education).

II. Federal Legislation

A. The Rehabilitation Act of 1973, section 504.

"Equal protection" for the handicapped person was legislated in the Rehabilitation Act of 1973. Section 504 of the Act, which prohibits discrimination against handicapped persons in many areas, including education, provides that

> no otherwise qualified handicapped individual in the U.S., shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

B. Public Law 94-142, 1975

In 1975, Congress passed the Education for All Handicapped Children Act (P.L. 94-142). In enacting this piece of legislation, Congress noted that federal assistance for the education of handicapped children was necessary "to assure equal protection of the law" thereby giving support to the equal protection argument made in the various litigation efforts to secure a right to education for handicapped children. The legislative history of this Act refers to the cases of Brown, PARC, and Mills as being influential in the thinking that went into the federal law.

Public Law 94-142 provides financial assistance to the states in return for assurances that participating states have a policy which is consistent with the purposes of the Federal Law -- "to assure that all handicapped children have available to them a free appropriate education which emphasizes special education and related services designed to meet their unique needs."

Included in this Act are clear statements about the rights of children (with parents* or surrogate parents acting on their behalf) in the education process. Schools are required

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*Parent as defined by the federal regulations, §121a10 "...a parent a guardian, a person acting as a parent of a child, or a surrogate parent who has been appointed in accordance with (the requirements described in the federal regulations). The term does not include the state if the child is a ward of the state.

(Continued)

to make efforts to involve parents in all phases of education, including identification, evaluation, program planning, placement, and review processes. Regulations to implement P.L. 94-142 were published in the Federal Register on August 23, 1977 (Vol. 42, No. 163). These regulations refine the various provisions of the Act, including the substantive and procedural rights and protections.

C. State Law

In order to qualify for federal funding for special education, each state must provide assurances to the Federal Government that it is complying with the requirements of P.L. 94-142. Louisiana did this by passing Act 754 in July, 1977. Although substantially following this Act, Louisiana provides for the coordination of all educational facilities and most educational responsibilities under the State Department of Education. The state law mandates special education to exceptional children ages three to twenty-one as of September 1, 1978. There is a "full educational opportunity goal" to make special education available to exceptional children aged birth through twenty-one by September 1, 1985

"Comment: The term 'parent' is defined to include persons acting in the place of a parent, such as a grandmother or stepparent with whom a child lives, as well as persons who are legally responsible for a child's welfare."

The Louisiana Regulations, §966, add:

"...provided that the rights and responsibilities of a parent established by this Regulation shall be exercised directly by an exceptional child who attains the age of eighteen years unless such child has been interdicted or determined to be in continuing minority by a court of the State of Louisiana."

(Louisiana regulations section 280).

Louisiana citizens can look to both federal and state law for guidance and protection.

Progress has begun; however, the rights now mandated for all exceptional children to receive a free appropriate public education must be protected and enforced. This handbook is aimed at providing the parent, child advocate or surrogate parent with some information necessary for protection and enforcement of the handicapped child's important right to education.

Public Law 94-142, Section 504 and Act 754

PUBLIC LAW 94-142, SECTION 504, AND ACT 754*

BASIC THRUSTS, OBJECTIVES, AND TARGET POPULATIONS

I. What is P.L. 94-142?[1]

P.L. 94-142, the Education for All Handicapped Children Act, is legislation passed by the United States Congress and signed into law by President Gerald R. Ford on November 29, 1975. The "94" indicates that this law was passed by the 94th Congress. The "142" indicates that this was the 142nd law passed by that session of the Congress to be signed into law by the President.

II. What are the purposes of P.L. 94-142?[1]

P.L. 94-142 can be said to have five major purposes:

A. Guarantees the availability of special education programming to handicapped children and youth who require it

B. Assures fairness and appropriateness in decision-making with regard to providing special education to handicapped children and youth

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*Information in this section of the manual has been compiled by the Surrogate Parent Program of Region I from three sources:

1. Information regarding P.L. 94-142 and section 504 -- excerpted, with permission from Exceptional Children, Vol. 44, No. 3, November, 1977; the Council for Exceptional Children; Reston, Va.
2. Information regarding Louisiana's Act 754 and the implementing regulations has been commented on, summarized, paraphrased, or quoted by the Surrogate Parent Program housed in the Children's Council of Orleans, Inc.
3. Some material regarding "Due Process" was produced for use in this manual by the Louisiana Center for the Public Interest, New Orleans, La.

C. Establishes clear management and audit requirements and procedures regarding special education at all levels of government

D. Financially assists the efforts of the state and local government through the use of federal funds (refer to Section 3 of Public Law 94-142)

E. Assures that handicapped children have available to them a free appropriate public education which emphasizes special education and related services

III. What is Section 504?[1]

Section 504 is a basic civil rights provision addressing discrimination against America's handicapped citizens. Section 504 was enacted through the legislative vehicle P.L. 93-112, the Vocational Rehabilitation Act Amendments of 1973. Though Section 504 is brief, the implications are far reaching. The statute reads:

> No otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subject to discrimination under any program or activitly receiving Federal financial assistance.

IV. What is Act 754?

Act 754 sets policy and regulates special education in Louisiana. Act 754 amends previous legislation and conforms with the federal mandates of P.L. 94-142 and Section 504 of P.L. 93-112. In its Declaration of Public Policy section, Act 754 outlines the duties of state, city and parish public school systems in providing an appropriate, free public education to every exceptional child in

the state.

V. What are the "regulations"?[2]

Acts of the legislature and of Congress outline policy and establish duties and responsibilities. Within these laws are requirements for regulations that interpret and implement the laws. Those governmental bodies - states, parishes, cities - which are mandated to follow the law are given guidelines which define and describe the manner in which to comply. The Louisiana regulations implementing Act 754 were published in their present form in August 1978. There is a summary statement which says the regulations "represent an effort to combine in a single document all of the state and federal requirements directly addressed to the identification of and provision of educational services to exceptional children in the State of Louisiana."

VI. To whom do P.L. 94-142 and Act 754 apply?[1]

Both Act 754 and P.L. 94-142 apply to all handicapped children who require special education and related services, ages three through twenty-one inclusive. Close coordination has thus been maintained between the provisions of P.L. 94-142 and those of Section 504 regulations (refer to Section 611 of P.L. 94-142 and background statement of Section 504 regulations).

VII. What is the relationship of P.L. 94-142 to the older federal Education of the Handicapped Act (EHA)?[1]

P.L. 94-142 amends Part B of P.L. 91-230, the original Education of

the Handicapped Act (EHA). Part B was formerly that portion of EHA addressing the basic state grant program. Parenthetically, all programs under the aegis of the EHA, including the P.L. 94-142 revision of Part B, are administered through the Bureau of Education for the Handicapped under the United States Office of Education.

VIII. How are handicapped children defined for purposes of these Acts?[1]

Handicapped children are defined by P.L. 94-142 and the federal regulations as children who are:

> mentally retarded, hard of hearing, deaf, orthopedically impaired, other health impaired, speech impaired, visually handicapped, seriously emotionally disturbed, deaf-blind, multihandicapped, or children with specific learning disabilities who by reason thereof require special education and related services.

Louisiana's Act 754 and regulations add, (Louisiana regulations subsection 931):[2]

> gifted and talented
> educationally handicapped or slow learning
> severe language disordered
> autistic
> hospital/homebound

Moreover, Louisiana regulations uses the term "exceptional child" rather than "handicapped child" throughout.

These definitions establish a two-pronged criterion for determining child eligibility. The first is whether the child actually has one or more of the disabilities listed in the above definitions; second is whether the child requires special education and related services. Not all children who have a disability require

special education; many are able and should attend school without any program modification (refer to Section 4 of P.L. 94-142).

IX. If the child has one or more of the disabiliteis listed in the preceding definitions and also requires special education and related services, how do P.L. 94-142 and Act 754 define special education?[1]

Special education is defined in P.L. 94-142 as:

> specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction and instruction in hospital and institutions.

Act 754 includes in its definition, "...instruction within the preschool, elementary and secondary school structures of the state..." Physical education is a must for all students. For the exceptional child this means inclusion in regular or adaptive physical education classes.

The Louisiana regulations define special education in language identical to the federal regulations (Louisiana regulations Subsection 987). The key phrase in the above definition of special education is "specially designed instruction... to meet the unique needs of a handicapped child." Reemphasized, special education, according to statutory definition, is defined as being "special" and involving only instruction that is designed and directed to meet the unique needs of a handicapped child. Therefore, for many children, special education is not the totality of their education proceeds from basic goals and expected

outcome of general education. Thus, intervention with a child does not occur because he or she is mentally retarded but because he or she has a unique educational need that requires specially designed instruction (refer to Section 4(a)(16) of P.L. 94-142).

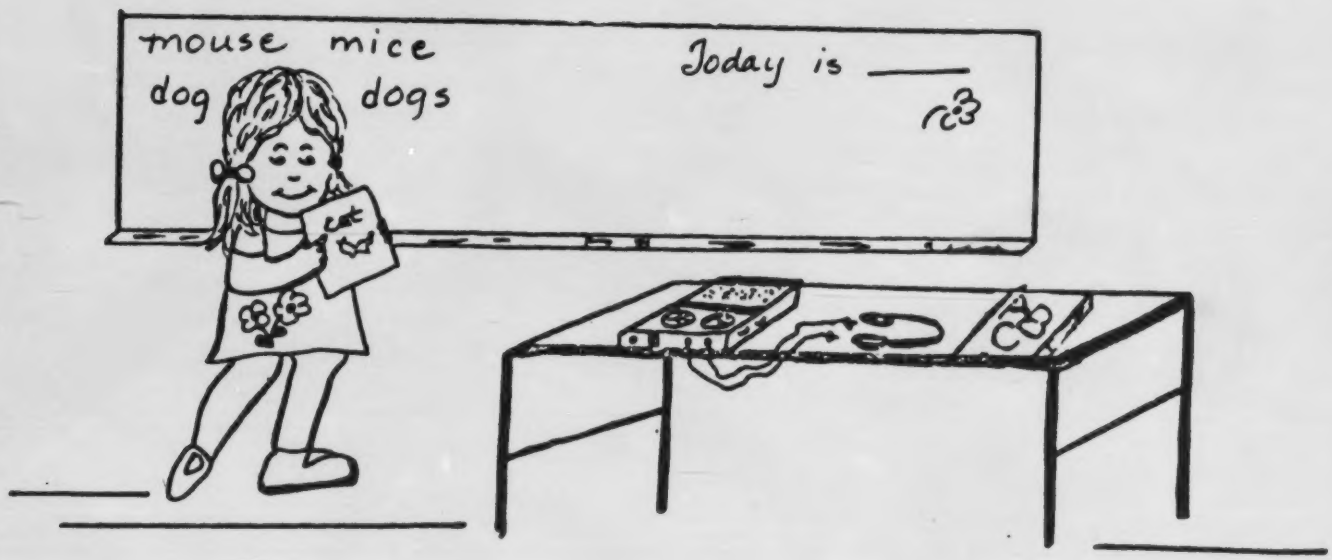
X. How are related services defined?[1]

Equally important to understand is the concept of related services that are defined by both the state and federal laws as:

> transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, and medical and counceling services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a handicapped child to benefit from special education, and includes the early identification and assessment of handicapping conditions in children.

The key phrase here is "as required to assist the handicapped child to benefit from special education." This leads to a clear progression: a child is handicapped because he or she requires special education and related services; special education is the instruction specially designed to meet the child's unique needs; and related services are those additional services necessary for the child to benefit from special educational instruction (refer to Section 4(1)(17) of P.L. 94-142).

A Free Appropriate Education



A FREE APPROPRIATE EDUCATION

I. What is the fundamental requirement of P.L. 94-142 from which all other requirements of this Act stem?[1]

P.L. 94-142 requires that every state and its localities, if it is to continue to receive funds under this Act, must make available a free appropriate public education for all handicapped children, ages three to eighteen, by the beginning of the school year (September 1) in 1978 and further orders the availability of such education to all children ages three to twenty-one, by September 1, 1980 (refer to Section 3(c) of P.L. 94-142.)

Louisiana[2] has included children ages three through twenty-one as of September 1, 1978, and has projected as a goal to serve persons from birth to twenty-one by September 1, 1985 (Louisiana regulations §280).

II. What about preschool and young adults under P.L. 94-142?[1]

For children in the three to five and eighteen to twenty-one age ranges, however, this mandate does not apply if such a requirement in inconsistent with state law or practice or any court decree.

Act 754[2] states that in Louisiana special education may be provided for children under three years of age who have serious handicapping conditions which, if untreated, could become greatly compounded by school age (Louisiana Act 754, §1943 (4)).

III. Since Section 504 and P.L. 94-142 are making, in essence, the same fundamental requirement of a free appropriate public education, are federal monies authorized under Section 504 as they are under P.L. 94-142?[1]

No. Section 504 is a civil rights statute like Title VI of the Civil Rights Act of 1965 (race) and Title IX of the Education Amendments of 1972 (sex).

IV. Must there be compliance with the fundemental requirement of P.L. 94-142 (as reiterated in Section 504 regulations) if P.L. 94-142 is not "fully funded"?[1]

It is most important to note that compliance with the minimal provision of a free appropriate public education is in no way dependent upon whether this Act receives appropriations at the top authorized ceilings, or in other words, is "fully funded." If a state accepts money under this Act, regardless of the amount of actual appropriations, it must comply with the aforementioned stipulation. Moreover, if a state accepts any federal funds for programs or activities it must, under Section 504, provide free appropriate public education to handicapped children.

V. What does "free education, as required in both P.L. 94-142 and Section 504 mean?[1]

"Free" means the provision of education and related services at no cost to the handicapped person or to his or her parents or guardian, except for those largely incidental fees that are imposed on nonhandicapped persons or their parents or guardian (refer to §84.33 (c)(1) of the 504 regulation).

VI. Does "free" mean that no private funds can be used?[1]

No. Private funds, such as from insurance, are not prohibited. To reiterate: there must be no cost to the handicapped person or to his or her parents or guardian.

VII. What does "appropriate" education mean?[1]

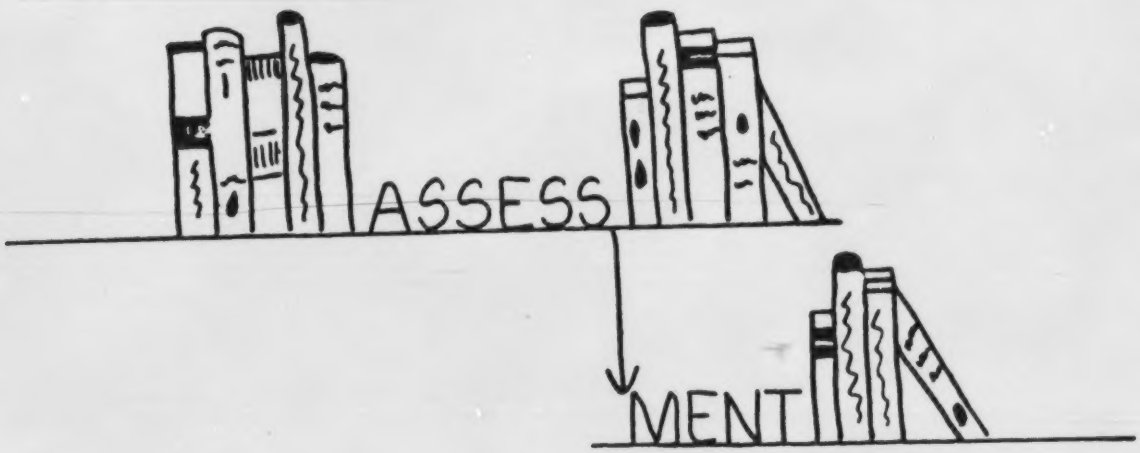
A. "Appropriate" is not defined as such, but rather receives its definition for each child through the mechanism of the written individualized education program (IEP) as required by P.L. 94-142. What is agreed to by all parties becomes, in fact, the "appropriate" educational program for the particular child.

B. The federal regulations (§121a4) for P.L. 94-142 define a "free appropriate public education" as "...special education and related services which:

1. "Are provided at public expense, under public supervision and direction, and without charge
2. "Meet the standards of the State Educational Agency...
3. "Include preschool, elementary or secondary school education... and,
4. "Are provided in conformity with an individualized education program..."

C. It should be noted that there may be a large difference between "state minimum standards" provisions and the "best of everything" for the child.

Identification, Location and Evaluation



IDENTIFICATION, LOCATION AND EVALUATION

I. How do children enter into special education?[1]

The federal law requires a state to demonstrate, through its annual plan, that policies and procedures for identifying, locating and evaluation children are undertaken. The state must insure that there is a method for determining which children are currently receiving special education and related services and which children are not. P.L. 94-142 and its regulations require the states receiving federal funds for special education to give details of how this method is applied (P.L. 94-142, §612 (2)(C)). Louisiana's Act 754, § 1945 (D), requires school boards to set up educational assessment programs for the purpose of identifying and locating exceptional children.

II. What are the steps for identifying a child?[2]

The state regulations expand this method and detail procedures that school boards must undergo for identifying exceptional children (Louisiana regulation § 410):

> child search: the school boards with the cooperation of each individual school must seek out, locate and identify, at least once each year, each exceptional child suspected of needing special education who is enrolled in public or non-public programs, in pre-school or day-care programs, in Special School District Number 1, as well as those who have dropped out of school or who are native Americans.

III. What happens once a child is identified? (Louisiana regulation §§ 412, 421, 422, 423, 425)[2]

Identified children are those who, because of the child search

activities or because of current special education enrollment, are suspected of being exceptional children in need of special education and related services.

A. According to the state regulations,

1. Notice must be sent to the parents, within 10 operational days of location, that the child has been identified as possibly needing special education. (Operational days are defined as days on which the State Department of Education is open for the conduct of public business.)
2. The notice must contain a general description of the post-identification responsibilities of the school board, the alternative actions which may be taken by the school board and the name of the responsible child search coordinator.
3. Within five operational days after notice has been sent the child must be considered for one of three post-identification alternatives:
   a. an initial screening process - classroom - based (total time, 10 operational days). Full and effective notice is required before entry into the process, though formal parental approval is not required.
   b. enrollment in educational assessment program - within the child's current educational environment (time, four to six weeks). Parental approval is required before enrollment.

c. an individual evaluation. Parental approval is required before conducting the evaluation.

B. In addition to the screening and educational assessment procedures, the school board must provide a complete assessment of the physical, mental, or medical condition of a child suspected of being exceptional, whenever such action is recommended in writing by the parish supervisor.

Parents must be given full and effective notice of such a recommendation within five operational days after it is made. No child may receive a medical assessment unless it is preceded by receipt of formal parental approval. The regulations state that:

> The parish supervisor shall recommend a medical assessment if he or she believes that the medical assessment will provide information relevant to a determination of whether an individual evaluation should be conducted. The medical assessment must be requested no later than five operational days after the completion of the initial screening process; the completion of the second week of an educational assessment program; or a direct referral for individual evaluation has occurred. (§ 425B)

IV. What sorts of tests are used in the initial screening?[2]

The state regulations call for the use of classroom-based screening services, including observational and other developmental screening procedures related to cognitive functioning, speech, sensory screening not previously conducted, social functioning, self-help skills, verbal abilities, and

language. (Louisiana regulations § 423)

V. What about the assessment program?[2]

Section 424 D states that "At a minimum, the educational assessment program must include the following services and activities: sensory screening, if not previously conducted; informal or formal educational assessment; classroom observation; other systematized behavioral observation; development of a social history and family study; the development of an individual diagnostic/prescriptive program for children for whom continued enrollment in the regular classroom is recommended. Formal educational assessment must be made by qualified persons consistent with standards established by the Department."

VI. Are any reports made on these procedures?[2]

A. A written report of findings of the initial screening process is to be completed within three (3) operational days after completion of the process (Louisiana regulations § 423). The parish supervisor or his/her designee must send full and effective notice to parents within 10 operational days of a child's entry into the process. Parents shall be informed of decisions recommending that the child be enrolled in an educational assessment; that the child be provided with an individual evaluation; or, that the child needs no additional screening or evaluation. A report of the assessment program must be written and sent to parents within five days of its completion. A copy of this report must also be made available to and

reviewed by the multi-disciplinary team conducting an evaluation or re-evaluation.

In addition to relating the findings, these reports must make a recommendation to:

1. continue the child in the current educational setting with no change,
2. enroll the child in the educational assessment program, or
3. conduct an individual evaluation of the child.

B. Note, the four- to six-week educational assessment may not be initiated if fewer than six calendar weeks remain in the school year. No child may be enrolled in an educational assessment more than once during any of twelve calendar months.

VII. What is an individual evaluation?[2]

A. The federal regulations define evaluation as:

> Procedures used to determine whether a child is handicapped and the nature and extent of the special education and related services that the child needs. The term means procedures used selectively with an individual child and does not include basic tests administered to or procedures used with all children in a school, grade, or class. (Federal regulation 121a50 (c))

B. Four points are important here:

1. The evaluation is diagnostic - i.e., it determines if the child is impaired and can be classified as exceptional.
2. Assess the effect such an impairment or condition has on the child's educational performance.
3. What special education and related services the child needs, recommending the types of services that enhance

the child's ability to benefit from any proposed education program.

4. It is an individual examination, not a test given to all students in a classroom or school.

VIII. Who can request an individual evaluation?[2]

The request can be made by any child education or care provider, including the parent or surrogate parent; however, the formal parental approval must be obtained before the evaluation may be conducted.

If, after 20 operational days from the date the parent is notified of the proposed evaluation, the parent has denied or failed to give formal parental approval for the individual evaluation, the school board shall either determine that it erred in proposing the individual evaluation or take the matter to an independent hearing officer, who is then called upon to make a decision, based on the factual evidence presented, as to whether or not the child should be evaluated. The parents must receive full and effective notice of the hearing and must be informed of all their rights regarding the hearing.

IX. What are the time limitations for conducting an evaluation? (Louisiana regulations § 430, B; 433, A, C)[2]

Louisiana regulations require an evaluation to be initiated within 30 operational days from the time formal parental approval or request for an evaluation has been received. The state may authorize the school board to take 30 additional days. The evaluation is to

be completed within 30 days from the time it is begun, unless an additional 30 days are approved by the state. A written report is to be made within 30 days after the evaluation is completed.

X. Who is responsible for conducting the evaluation? (LA. reg. § 432 A, C)[2]

A. The parish supervisor designates an evaluation coordinator to review all pertinent information regarding the child before the initiation of an individual evaluation. Included is pertinent information and/or the written report of any initial screening program, educational assessment program or medical assessment.

B. In addition,

1. "The Evaluation Coordinator shall, in order to initiate the individual evaluation, appoint a multidisciplinary team for the conduct of the evaluation. The Evaluation Coordinator chairs the meeting.

2. "The multi-disciplinary team must be composed of persons drawn from different disciplines and appropriate to a complete assessment of the suspected exceptionality. In all cases an educational consultant and a classroom teacher (or other instructional staff member) familiar with the child and knowledgeable with respect to the suspected exceptionality must be included on the team. In addition, the multi-disciplinary team must include persons certified as qualified examiners by the Department.

3. "When a low incidence handicapping condition is the suspected exceptionality, the Evaluation Coordinator must consider the desirability of utilizing a specialized statewide assessment center for the individual evaluation.

4. "When a sensory or other physical impairment is the suspected exceptionality (or is among them), a physician with specialized training and experience in the diagnosis and treatment of the particular physical condition or, as appropriate, a licensed

audiologist or optometrist, must be included on the team.

5. "When mental retardation is the suspected exceptionality (or is among them), a Department certified psychologist who meets State Board approved standards, and, when appropriate, a licensed physician skilled in the diagnosis and treatment of neurological conditions must be included on the team.

6. "When mental illness or emotional disturbance is the suspected exceptionality (or is among them) the team must include:

   a) "A board certified or board eligible psychiatrist, or a licensed psychologist who meets the standards of the National Register for Health Service Providers in Psychology, or a qualified mental health professional under the general supervision of either a board certified psychiatrist or a licensed psychologist; and

   b) "When appropriate, a physician skilled in the diagnosis and treatment of neurological conditions.

7. "Speech pathologists, social workers, school counselors, school nurses, physical therapists, adaptive physical education teachers and occupational therapists must be included on the team whenever appropriate for a full and accurate assessment of the needs of the child."

XI. What is the content of an evaluation? (La. reg. § 435)[2]

The state regulations require that the individual evaluation must include the full assessment of:

A. Current and past academic performance, including how the child's level of learning compares with what is appropriate for his/her age

B. Whether there is a significant discrepancy between achievement and ability

C. Current physical, mental, emotional and psychological conditions

D. Personal attributes: abilities, disabilities, behavior, language and other communication skills, and work behavior, if appropriate

E. Environmental factors: cultural, economic, social, familial

F. The views of teachers and parents

G. Written report of any independent evaluations.

XII. What evaluation instruments and tests are used? (La. reg. § 436)[2]

No single procedure should be used to determine whether special education is indicated for the child. Test and evaluation materials used must be:

A. Tailored to assess specific areas of educational need, not merely those which are designed to provide a single intellectual or ability quotient

B. Used and administered the way their author has recommended

C. Free of racial, cultural, language or sex bias

D. Appropriate for the age and stage of development of the child being evaluated

E. Written in the native language or presented in the person's usual mode of communication (e.g. sign language, braille, etc.), unless it can be demonstrated that it is not feasible to do so

F. Selected so results reflect the factors the test is designed to measure, not simply a finding that the child is impaired by sight, hearing, speech, or manually; except, of course, if the test is measuring the extent of that impairment

G. No individual or group I.Q. tests may be administered, unless they have been approved for the proposed use by the State Board. Overall I.Q. scores should neither be recorded, nor

reported.

If the child is found to be mentally retarded, it should be a result of a variety of factors including an assessment of adaptive behavior and current developmental activities. This should include assessment of of social, intellectual, verbal, motor, language, emotional, and self-care development (La. reg. § 436, C).

A full description of policy regarding assessment and evaluation for each exceptionality may be found in the State Department of Education's Pupil Appraisal Handbook, Bulletin 1508.

Individualized Education Program

INDIVIDUALIZED EDUCATION PROGRAM

I. What are the basic concepts of the IEP?[2]

The term Individualized Education Program (IEP) itself conveys important concepts that need to be specified. First, individualized means that the IEP must be addressed to the educational needs of a single child rather than a class or group of children. Second, education means that the IEP is limited to those elements of the child's education that are more specifically special education and related services as defined by the Act. Third, program means that the IEP is a statement of what is provided to the child.

II. What is the purpose of the IEP?[2]

The purpose of the IEP is to set forth in writing a commitment of resources that indicates what special education and related services are provided to meet each handicapped child's unique needs. (Louisiana's IEP Manual, Bulletin 1530, p. 48).

III. What are the basic components of an IEP?[2]

A.P.L. 94-142 contains a specific definition describing the components of an IEP as:

> "a written statement for each handicapped child shall include
>
> a) a statement of the present levels of educational performance of such child
>
> b) a statement of annual goals, including short-term instructional objectives
>
> c) a statement of the specific educational anticipated duration of such services, and appropriate objective

criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved."

(Refer to Section 4(a)(19) of the Act.)

B. The federal and state laws requires local school systems to have in effect an indivudual education program for every exceptional child residing within their jurisdiction.

C. The state regulations (§§ 441, D) list the content of the IEP to include, at a minimum:

1. A description of current educational performance and level of individual functioning (Similar language in 94-142)
2. A description of overall educational needs
3. Long-term educational goals and description of the ultimate educational outcomes (e.g., is the child college bound? or trade school bound? or are the ultimate educational goals to provide him/her with good self-help skills? etc.; similar language in 94-142)
4. A description of the criteria and evaluation procedures (and schedules) for determining whether goals are being met
5. A description of the specific educational environment in which the child is to be placed for the first year (or partial year) of the IEP and the reasons which make it the least restrictive environment possible
6. Annual educational performance goals for the child (Similar language in 94-142)

7. A description of short-term instructional objectives for the child which are measurable intermediate steps to attaining goals (Similar to language in 94-142)

8. A description of criteria and evaluation procedures for measuring progress toward objectives (Similar language in 94-142)

9. A description of the specific special education and related services needed by the child, the number of months of instruction required, and if greater than the regular school year, the manner in which those services are provided and a timetable for providing them

10. A description of personnel (including qualifications) necessary to provide services described

11. A description of the type of regular physical education or adaptive physical education services needed, if any

12. The projected date for initiation of each type of service and the anticipated duration of each. (Similar language in 94-142)

D. For IEP's deemed appropriate by LEA or its representative

1. An identification of those persons responsible for overall implementation and a description of the role and objectives of each agency participating in delivering services and of all parties necessary for the implementation of the plan

2. An identification of any anticipated barriers to accomplishing goals and objectives and a description of how

such barriers can be overcome

3. An estimated cost of implementing the plan and, whenever appropriate, cost participation by individual (e.g. when a parent might be asked to participate in counseling, the cost of such therapy is the individual's responsibility, etc.)

E. For IEP's of migrant and bilingual students who have been identified by their appropriate statuses

1. An identification of need for a program of bilingual education (as defined in 45 CFR 123.02g)

2. A description of any special instructional needs related to status as a currently or formerly migratory child (as defined in 45 CFR 116d.2)

IV. What is the relationship of the IEP to other management tools?[2]

According to the state's IEP Manual

A. Individual Program Plan (IPP)

1. Rationale

The Individual Program Plans are written habilitation/rehabilitation plans. They are written for all persons with developmental disabilities accepted for services by the Division of Vocational Rehabilitation. They are written with the maximum involvement of the student/client, or with the student/client's parents or advocate. They are written and revised continuously as long as the student/client is being served. The IPP's reflect a positive

focus in treating the developmentally disabled. They emphasize the positive aspects of the student/client's behavior rather than the problems. They stress what the student/clients can do for themselves.

2. Format

The IEP/IPP form has been designed to merge the Individual Education Program required for all exceptional children, ages 14 through 21, and the Individual Program Plan required by the Louisiana Department of Health and Human Resources, Division of Vocational Rehabilitation to facilitate vocational education's participation in the student/client's total educational program.

3. Purpose

The purpose of developing the IEP/IPP is to set forth in writing the vocational education program needs of each handicapped child, ages 14 through 21. It is intended to merge the IEP required by Act 754, Section 441D and the Individual Written Rehabilitation Plan (IWRP) required by P.L. 93-112, Title I, Section 120 and the Vocational Education Act, PL 94-482, Section 104.5 B and C. When implemented, this becomes the Individual Program Plan (IPP).

B. Individual Service Plan

1. Rationale

The Individual Service Plan (ISP) is a program for service delivery to individuals needing placement in a more

restrictive setting. The ISP assures mutual planning and accountability and describes the participation and involvement on the part of the representative from the Office of Human Development and the client or family. The ISP is dynamic and is up-dated as goals are achieved or modified.

2. Format

The ISP is based upon intake, case study, assessment, professional evaluations, and social evaluations. It addresses each of the following:

a) Problem or needs of client - this should relate to the original reason for OHD involvement;

b) Goals - as seen by the client and the case coordinator;

c) Step by step proposed action plan or service strategy - include here what services are needed, who can perform these services, and whether services can be provided in home, or if out of home care is needed;

d) Time frame - for completion of each service or activity the case coordinator and the client are to perform;

e) Review - estimated date when the service plan will be reviewed and updated.

3. Purpose

The purpose of the ISP is to specify programs, services, and living conditions for clients who are residentially placed. It is based on the developmental history, the case study, assessment, professional evaluations, and the social evaluation, and is used in conjunction with the IEP for clients between the ages of 3 and 21 years.

V. What is the difference between "educational services" and "habilitation, care, and treatment"?[2]

A. The interagency agreement between the State Department of Education and the Office of Mental Health and Substance Abuse defines these terms as:

1. "Educational Services" - means special education instruction, at no cost to the parents or recipient, that meets the special needs of an exceptional individual to include regular classroom instruction, physical education, and hospital bound instruction according to a valid individualized education plan.

2. "Habilitation, Care, and Treatment" - means

a) Appropriate living quarters with provisions for privacy, use of personal possessions, and adequate supervision including training in personal habits and self care

b) Nutritional program providing adequate nutrition as prescribed by the individual plan

c) Medical and dental care

d) Activity therapy to include drama, art, occupational and recreational therapy as supplementing "educational services" in these areas

e) Social services to include evaluation and counseling to both individual and family

f) Psychiatric and psychological evaluation and treatment

g) Pharmaceutical services to include all necessary medications and therapeutic agents for medical and

psychiatric treatment

h) Nursing services to provide care and supervision of mental and physical needs of the child and to administer emergency services for first aid

B. The distinction between "Education" and "Habilitation, Care, and Treatment" has direct implications for surrogate parents. These are discussed in the "Surrogate Parents" section of this manual under "The Responsibilities of a Surrogate Parent."

VI. Who must be involved in the development of the IEP?[2]

A. P.L. 94-142 states that the IEP should be

"developed in any meeting by:

1. "a representative of the local education agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of handicapped children,

2. "the teacher,

3. "the parents* or guardian of such child, and

4. "whenever appropriate, such child..."

B. Louisiana's Act 754 states that (§§ 442 B):

"The IEP shall be developed by:

1. "staff of the school board working in concert with

2. "the child's parent(s)*

3. "the child's current teacher and/or school counselor and

4. "other relevant instructional staff;

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* as defined by federal and state regulations

5. "the evaluation coordinator or other member of the multi-disciplinary team knowledgeable about the child, the meaning of the evaluation data and the placement options;

6. "the parish supervisor or designee, knowledgeable about the costs of implementing a proposed plan;

When appropriate:

7. "a representative of Special School District Number 1;

8. "a representative of an approved nonpublic school program."

C. The state's IEP manual (pp. 9, 10) adds:

1. In the event the child has no current teacher the education consultant and/or the school counselor and/or other instructional personnel may serve on the IEP committee.

2. In the event that it is impossible or infeasible to have a member of the multi-disciplinary team that conducted the child's evaluation, a substitute who has communicated with a team member and who understands the evaluation process relative to the child may be appointed.
The LEA must document the impossibility or infeasibility of the use of the multi-disciplinary team member.

VII. <u>May others be involved in the development of the IEP?</u>[2]

Good practice suggests that others frequently be involved. If a related service person will be providing services, he/she should be as involved as the teacher. The parents may bring an additional person familiar with the child to the meeting; or a person who may

have expertise in writing good educational objectives; or a person knowledgeable about methods of instruction for a child with the diagnosed exceptionality; or a person with experience in the writing of effective IEP's; or any such person as the parent feels would be helpful in developing the child's individual education program.

VIII. Who must be provided an IEP?[2]

The State Educational Agency shall insure that an IEP is provided for each handicapped child, aged 3 through 21, who is receiving or will be receiving special education through the Local Education Agencies and Special School District No. 1, regardless of what institution or agency provides or will provide special education to the child.

IX. What must local and intermediate education agencies do regarding IEP's?[2]

A. The Local Education Agencies and Special School District No. 1 must establish policies and procedures for developing, implementing, reviewing, maintaining, and evaluating special educational services provided to handicapped children.

B. Each local educational agency develops or revises (whichever is appropriate) an IEP for every handicapped child at the beginning of the school year. Each agency also reviews and, if appropriate, revises its provisions on not less than an annual basis.

C. If a child has already been determined to be an exceptional

child in need of special education and related services and an individual evaluation is not required during the current school year, the IEP for the next school year must be developed no later than May 15 of the current school year (La. reg. § 441, B).

D. The revision of the IEP may be proposed at the beginning of the next school year to permit the involvement of a new teacher. It may be necessary to modify the IEP because of the effect of the summer recess on the child's learning. In any event, formal parental approval must be obtained before any modifications may be made of the child's IEP that was developed and approved the previous school year (Subsection 441, F).

E. Each local educational agency is responsible for initiating and conducting meetings for developing, reviewing, and revising a child's IEP.

F. For children currently receiving services under an IEP consistent with the regulations, the IEP must be developed and completed by May 15 of the current school year and must be implemented no later than the first day of school of the next full term.

G. In Louisiana the regulations require both a written IEP within 20 operational days of the written individual evaluation report (§ 441, A) and an annual review to be completed by May 15 of the school year (§ 447, A).
(Refer to Section 614(a)(5) of P.L. 94-142.)

For Special School District No. 1:

H. Special School District No. 1 (under the Division of Special Educational Services of the State Department of Education) is responsible for providing special education programs in all the state-operated residential facilities.

I. Special School District No. 1 and the LEA of the resident parish of the child's parents share joint responsibility for insuring the IEP development.

J. The scheduling of LEA participation is coordinated through Special School District No. 1 which works directly with principals employed in Special School District No. 1-operated facilities and informs the LEA of the scheduled meeting.

K. Special School District No. 1 is responsible for assuring that all educational programs are maintained in compliance with the appropriate educational regulations and standards issued by the Department of Education.

Education Plans

L. At the state-operated residential facilities IEP's are to be prepared as follows:

1. A certified multidisciplinary team, approved by Special School District No. 1, evaluates each school-aged child to determine his/her educational needs and academic placement (as outlined in the State Department's Pupil Appraisal Handbook, Bullentin 1508).

2. Authorized representatives from Special School District No. 1,

the staff of the state-operated residential facility and the parent(s), guardian, or surrogate parent* jointly review the findings of the educational evaluation and the findings of the facility's staff evaluation.

3. The purpose of the staffing is to determine what portion of the resident's programmed time is assigned to education and educational related services in accordance with Act 754 regulations, and what portion is assigned to the facility's habilitation activity.

4. Based on the deliberation of this staffing, the individual education plan of the resident is prepared and becomes a part of the resident's master file.

5. The IEP is updated and revised annually at a joint staffing of residential facility and educational personnel.

6. Related services conditioning the child for broader life experiences are provided by the residential facility through the habilitation program authorized by its regulations. Special School District No. 1 provides related services only to the extent of direct special educational relevance.

M. The following are procedures to be used when children are placed in residential schools operated by the Board of Elementary and Secondary Education (BESE):

1. Each child must receive an evaluation by a multidisciplinary

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*Appropriate responsibilities of the surrogate parent at these staffings are discussed in the "Surrogate Parent" section of this manual.

team including an educational consultant. The evaluation may be completed by personnel employed by BESE facilities.

2. Identified exceptional students currently enrolled in BESE-operated residential programs must receive an annual IEP review and update of the educational placement.
3. Special School District No. 1 and the LEA of the resident parish of the child's parents share joint responsibility for insuring the IEP development.
4. The scheduling of LEA participation is coordinated by Special School District No. 1, which works directly with the BESE principals and informs the LEA of the scheduled meeting.
5. These procedures are utilized in the Louisiana State School for the Visually Impaired, the Louisiana State School for the Deaf, the Louisiana Special Education Center, and the Northeast Cerebral Palsy Center.

X. Do the IEP requirements apply to children in private schools and facilities?[1]

Yes. The state educational agency shall insure that an IEP is developed, maintained, and evaluated for each child placed in a private school by the state educational agency or a local educational agency. The agency that places or refers a child shall insure that provision is made for a representative from the private school, (the principal) to participate in each meeting. If the private school representative cannot attend the meeting, the agency shall use other methods of insure participation

by the private school, including individual or conference telephone calls (refer to Section 613(a)(4)(B) of P.L. 95-142).

XI. Is the IEP an instructional plan?[2]

No. The IEP is a management tool intended to insure that special education designed for an individual child is appropriate (that is, it meets state minimum standards) to his or her learning needs.

XII. What procedures should educational agencies follow to involve parents in the development of their child's IEP?[2]

A. Each local educational agency shall take steps to insure that one or both of the parents of the handicapped child are present at each meeting or are afforded the opportunity to participate, including scheduling the meeting at a mutually agreed on time and place.

B. If neither parent can attend, the local educational agency shall use other methods to insure parental participation, including individual or conference telephone calls.

C. The local educational agency shall take whatever action is necessary to insure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

D. The Louisiana regulations list methods that school boards must use to insure parental participation in the development of an IEP, § 442, D. As is stated above, school boards must provide full and effective notice to parents reporting the

purpose of the meeting, the time location and the persons who are attending. Efforts must be made to set the meeting at a mutually agreeable time. However, if parents fail to respond to the initial notice, three other methods are listed:

1. Staff of school systems must make reasonable efforts to communicate orally and in writing the purpose of the IEP meeting and the need for parental participation.
2. This failing, efforts to enlist parental participation are to be made by phone and certified letter.
3. If these methods are unsuccessful, a notice of intent to refer to child welfare is issued. Referral is made 10 operational days after the notice is sent.

XIII. What does Section 504 say with respect to the IEP?[1]

As just discussed, P.L. 94-142 requires the development and maintenance of individualized written education programs for all children. The 504 regulations cite the IEP as "one means" of meeting the standard of a free appropriate public education or "equal educational opportunity" (refer to #84.33(b)(2) of the 504 regulation).

Least Restrictive Educational Environment

LEAST RESTRICTIVE EDUCATIONAL ENVIRONMENT

I. P.L. 94-142 requires that handicapped children receive a free appropriate public education in the least restrictive educational environment. What does this mean?

A. It is critical to note what this provision is not:

1. It is not a provision for mainstreaming. In fact, the word is never used.
2. It does not mandate that all handicapped children be educated in the regular classroom.
3. It does not abolish any particular educational environment; for instance, educational programming in a residential setting.

B. It is equally critical to note what his provision does mandate:

1. Education with nonhandicapped children is the governing objective "to the maximum extent appropriate."
2. The IEP is the management tool used to achieve the least restrictive environment and therefore shall be applied within the framework of meeting the "unique needs" of each child.
3. The IEP document(s) must clearly "show cause" if and when one moves from least restrictive to more restrictive. The statute states that the following phrase must be included in the written statement accompanying the IEP "and the extent to which such child will be able to participate in regular educational programs."

(Refer to Section 612(5)(B) of the Act.)

4. The "nearest placement to home" is also a determinant of instructional placement in the least restrictive environment.

II. What about Act 754?[2]

The Louisiana statute states that special education programs in settings other than the regular school programs should be considered only when the nature or severity of the exceptionality would make education in the regular classroom an unsatisfactory alternative (§ 1946, B of Act 754). Programs outside the regular class should be as close to the child's home as possible (La. reg. § 443., F).

III. How is the child placed in a setting other than the regular program? (La. reg. § 443)[2]

A. The Louisiana regulations state that the IEP must describe the proposed educational placement. The parish supervisor decides what the appropriate placement is after he/she takes all evaluatory information and after he/she consults with the child's teacher, the evaluation coordinator, and the child's parent(s).

B. The proposed placement must be selected from a continuum of settings. The one selected must be the one which provides the child with adequate educational services, and related services and resources that respond to his/her needs. The objective is to accomplish, as closely as possible, results comparable

to a child who is not exceptional.

C. At a minimum the continuum of educational settings must include:

1. The regular classroom
2. The regular classroom with consultation
3. The regular classroom with resource teacher
4. The regular classroom with itinerant resource teacher
5. A self-contained classroom with part-time instruction in a regular class
6. A self-contained special class (regular campus)
7. A self-contained special class in a special day facility
8. Homebound/hospital instruction
9. A residential program (i.e. referral to Special School District No. 1)
10. A resource center for gifted and talented students
11. Any combination of 1-10
12. Cooperative special education and related services

IV. What are the approval procedures for special education placement? (La. reg. § 445)

A placement decision may be made at the end of the IEP meeting, but at a maximum, within 10 days after the IEP is completed. If a separate placement meeting is held, the school board must schedule a meeting with:

- the parish supervisor, or designee
- the receiving teacher
- the parent(s)

Along with the notice of the meeting a copy of the proposed IEP, signed by the parish supervisor and the teacher receiving the child in the proposed placement must be given to the parent(s). The proposed IEP and proposed placement are discussed at the meeting. The parent may authorize or consent to the proposed educational placement. No special educational placement may be made without formal parental approval. If there is to be a modification in the proposed placement, as a result of the discussion, the modified placement is to be made within three days of the meeting. At that time formal parental approval is again requested.

In lieu of attending the meeting a parent may authorize the proposed IEP and placement without attending the meeting. In effect, the parent may either agree with what is proposed, in writing, or may elect to forego his/her right to review the proposed plans first hand.

The IEP must be implemented and the placement made within 10 days after formal parental approval is received.

V. What are the types of special education services that can be included in a child's program? (§ 446 D)

A. Classroom instruction

B. Instruction in nonclassroom settings including homebound instruction

C. Social and personal habilitation services

D. Preschool stimulation

E. Other specially designed instruction

F. Physical therapy

G. Occupational therapy

H. Recreation or recreational therapy

I. Speech pathology

J. Audiology

K. Athletics

L. Diagnostic and evaluative medical and health services

M. School health and nutrition services

N. The provision of prosthetic, orthotic, or other assistive devices and related services

O. Post-institutionalization follow-along services

P. Prevocational and career development services

Q. Psychological services

R. Counseling services

S. Social and social work services

T. Interpreter and reader services

U. Parent counseling and training

V. Facilitating services, including transportation

W. Room and board (when residential placement)

X. Nonmedical care (when residential placement)

VI. What about other school activities? (La. reg. § 446)[2]

A. Nonacademic and extracurricular services and activities (including counseling, physical recreational athletics, intramural and interscholastic athletics, transportation, health services, and clubs) must be offered in a way which

allows equal opportunity for handicapped and exceptional children to participate in services and activities.

B. Nonacademic and extracurricular services, meals, and recess periods must be provided in the most integrated setting appropriate to the needs of the child.

C. Handicapped and exceptional children must be provided an equal opportunity for participation in physical education courses and interscholastic, club or intramural athletics sponsored by the school board.

D. Physical education services (including specially designed services when necessary) must be provided to handicapped children in the regular physical education program and may not be different from those provided other children, unless:

1. The child is enrolled full time in a separate facility or needs specially designed physical education (consistent with the description called for by Subpart 441 D14).
2. A separate physical education setting is the least restrictive environment.
3. No qualified handicapped person is denied opportunity to compete for teams or to participate in courses that are not different.

E. School boards which operate a preschool education or day care program or activity may not exclude handicapped or other exceptional persons and must take into account the need of these persons in determining the aids, benefits of services to be provided.

F. School boards which operate an adult education program or activity may not exclude handicapped or other exceptional persons and must take into account the need of these persons in determining the aids, benefits or services to be provided.

G. School boards are responsible for insuring that services provided children in residential facilities in which they are placed or in which placement is proposed conform, with respect to educational programs, to the requirements of this Regulation and standards issued by the Department with the approval of the State Board. School boards must also insure that such facilities conform to all applicable requirements established by DHHR and the State Department of Corrections.

H. School Boards may provide special education services for children under three years of age who have serious handicapping conditions which, if untreated, could become greatly compounded by school age.

I. School boards must prepare a progress report related to the instructional objectives specified in the IEP for each exceptional child and must include it with, in, or in lieu of the parent report prepared by the school board for all elementary and secondary students.

J. School boards must, consistent with the requirements of the public school accountability and assessment program, regularly assess the proficiency and performance of exceptional children receiving services, the educational and cost effectiveness of

instructional programs utilized, and the performance of public school personnel providing services under this Part.

VII. What is covered under accessibility? (§ 460)

Geographic and architectural accessibility. The child's placement must be as close as possible to the child's home. Architectural barriers must not prevent an exceptional child from being educated in the least restrictive environment.

Procedural Safeguard

PROCEDURAL SAFEGUARDS

I. Under P.L. 94-142, what happens if there is a disagreement with respect to what constitutes an appropriate education for a particular child?[1]

States must guarantee procedural safeguard mechanisms for children and their parents or guardians. Those provisions of previously existing law (P.L. 93-380, the Education Amendments of 1974) that address the guarantee of due process rights are further refined in P.L. 94-142, and their scope is substantially enlarged. Basically, the state education agency must guarantee the maintenance of full due process procedures for all resident handicapped children and their parents or guardian with respect to all matters of identification, evaluation and placement. Interested individuals are strongly urged to read Section 615 of P.L. 94-142 ("Procedural Safeguards") in its entirety, or the Louisiana regulations for Act 754, § 470-476.

It should be further noted that, when the parents or guardian of a child are not known, are unavailable, or when the child is a legal ward of the state, the state education agency, local education agency, or intermediate education agency (when appropriate) must assign an individual to act as a surrogate parent who shall represent the child in all matters relating to the identification, individual evaluation and educational placement and the provision of a free appropriate education. Moreover, such an assigned individual may not be an employee of the state educational agency, local educational agency, or intermediate educational unit

involved in the education or care of the particular child (refer to Section 615 of P.L. 94-142).

II. Does Section 504 regulation also require the maintenance of a procedural safeguard mechanism?

Yes. Most of the major principles of due process embodied in P.L. 94-142 are clearly present in 504 regulation; all of the stipulations of P.L. 94-142 are treated only as "one means" of due process compliance under Section 504 (refer to #84.36 of the 504 regulation).

III. Are due process hearings the only recourse for parents to resolve differences with the school board? (La. reg. § 475)[2]

No. The laws implementing special education are frontiers in the area of serving exceptional children. Goals and objectives making special education available to all handicapped and gifted children take time to interpret and implement. Throughout this early period there may arise conflicts due to what is mandated by law and what, in fact, is available in a community. It is only through the joint effort of parents, child advocates, and the school system that the goals and objectives can be reached. Parents and school systems must make all reasonable efforts to resolve conflicts and disagreements. Informal resolution, or conciliation, can save a lot of time, anguish, and expense. Nevertheless, a parent or a school system may find that all conciliatory avenues have been attempted and that there still is no progress with the original problem. It is at this point

that a formal hearing may be the alternative for resolving disagreements.

IV. What does P.L. 94-142 say with respect to assessment of children?[2]

A. P.L. 94-142 carries a provision that seeks to protect the child against discrimination stemming from racially or culturally biased assessment procedures. The statute does not provide a comprehensive course of remedy with respect to potential discrimination, but does make two clear and important stipulations in this direction:

1. "Such materials and procedures shall be provided in the child's native language or mode of communication.

2. "No single procedure shall be the sole criterion for determining an appropriate educational program for a child."

B. The provision, in effect, orders that assessment procedures be multi-factored, multi-sourced, and carried out by qualified personnel. The regulations governing this provision should therefore be carefully reviewed (refer to Section 612(5)(C) of P.L. 94-142 or the state regulations for Act 754, § 403-439).

V. What does Section 504 regulation say with respect to the assessment of children?

The objectives of Section 504 and P.L. 94-142 are essentially the same on this matter, and the regulatory language for both statutes is also similar. Section 504 additionally states that persons with handicap, special education or related services needs must be evaluated before any initial placement actions and before any

subsequent significant placement changes (refer to § 84.35 of the 504 regulations).

VI. What does P.L. 94-142 say about confidentiality of data and information?[1]

Topics discussed in the implementing regulations for P.L. 94-142 under the heading "Confidentiality of Information" are as follows:

A. (P.L. 94-142 § 121a 560) Definitions

1. "Destruction" of records
2. "Education records"
3. "Participating Agency"
4. "Education records" are defined as

a) "those records which

(1) are directly related to a student, and

(2) are maintained by an educational agency or institution or by a party acting for the agency or institution."

b) The term does not include:

(The list under 99.3 "Education Records" (b) of the Family Educational Rights and Privacy Act)

B. (P.L. 94-142 § 121a 561) Notice to parents

1. Here it is stated that parents must be notified as a whole population, about activities that the State Educational Agency (SEA) undertakes with regard to locating, identifying or evaluating students.
2. In general this section discusses the procedure which the SEA must follow for notifying parents about personally identifiable information gathered:

a) a description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the state uses for gathering this information and the uses it makes of the information;

b) a summary of the policies and procedures which participating agencies must follow regarding storage, disclosure to third parties, retention and destruction of personally identifiable information;

c) a description of all rights of parents and children regarding this information; and

d) publication or announcement in newspapers or other media or both before any major identification, location, or evaluation activity.

C. (P.L. 94-142 § 121a 562) Access rights

This section directs each participating agency to make educational records available or accessible to parents within a reasonable period of time, not to exceed 45 days. Listed are the rights of parents regarding the inspection and review of education records:

1. the right to receive a response to reasonable requests for explanations and interpretations;
2. the right to request copies of the material if failure to have copies would effectively prevent parents from inspecting and reviewing the records;

3. the right to have a representative of the parent to inspect and review the records;

4. the assumption that a parent has the right to review such records unless the agency has been advised to the contrary by authority of state law governing such matters as guardians, separation, or divorce.

D. (P.L. 94-142 § 121a 563) Records of access

There should be a record of parties obtaining access to educational records (except access by the parents and authorized employees of the participating agency) including the name of the party, the date access was given, and the purpose for which the party was given access to the records.

E. (P.L. 94-142 § 121a 564) Records on more than one child

If an education record contains information about more than one child, parents have a right to inspect and review only information relating to their child or to be informed of that specific information.

F. (P.L. 94-142 § 121a 565) list of types and locations of information

G. (P.L. 94-142 § 121a 564) Fees

1. The participating education agency may charge for the copy of the educational information if this charge does not effectively prevent the parents from exercising the right to inspect and review those records.

2. The participating agency may not charge a fee to search or to retrieve information described in these rights.

H. (P.L. 94-142 § 121a 567) Amendment of records at parent's request

1. A parent may request amendments to the information when the parent believes the information in the education record is inaccurate or misleading.
2. The agency must decide whether to amend the record.
3. If the agency decides to refuse to amend, it must advise the parent of the refusal and of the parent's right to a hearing. This is not a "due process" hearing.

I. (P.L. 94-142 § 121a 568) Opportunity for a hearing

The agency shall, on request, provide an opportunity for a hearing to challenge the information in the education record.

J. (P.L. 94-142 § 121a 569) Result of hearing

1. If as a result of the hearing the agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing.
2. If as a result of the hearing the agency decides that the information is not inaccurate, etc., it shall inform the parent of the right to place within the record, a statement commenting on the information or setting forth reasons for disagreement.
3. An explanation placed in the records of the child under the section

a) must be maintained by the agency as part of the

record; and

b) if the record of the child or the contested portion is disclosed to any party, the explanation must also by disclosed to the party.

K. (P.L. 94-142 § 121a 570) Hearing procedures

1. The parent's request for a hearing must be met within a reasonable period of time and he/she must be notified of the time and place reasonably in advance of the hearing;
2. Any impartial party, including an official of the education agency or institution, may conduct the hearing;
3. The parent shall be afforded full opportunity to present evidence, relative to the rights of confidentiality, and may be assisted or represented by individuals of his or her choice, at his/her expense, including an attorney;
4. The educational agency or institution shall make its decision within a reasonable period of time after the conclusion of the hearing; and
5. The decision of the agency or institution shall be solely based upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

L. (P.L. 94-142 § 121a 571) Consent*

1. Prior consent required

a) An educational agency or institution shall obtain the

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*Refer also to Title 45, Part 99--Privacy Rights of Parents and Students the Family Educational Rights and Privacy Act (45 CFR 99.30).

written consent of the parent before disclosing personally identifiable information from the education records of the student.

b) The written consent must be signed and dated by the parent and shall include:

(1) a specification of the records to be disclosed

(2) the purpose of the disclosure

(3) the party(ies) to whom the disclosure may be made

c) When such disclosure is made, the educational agency must respond to a parental request for a copy of the divulged record.

2. Prior consent is not required if the disclosure is

a) To other school officials determined by the agency to have legitimate educational interests

b) To officials of another school or school system in which the student seeks enrollment

c) To authorized representatives of

(1) The Comptroller General of the United States

(2) The Secretary of the U.S. Department of Health, Education and Welfare

(3) The U.S. Commissioner of Education, the Director of the National Institute of Education, or the Assistant Secretary of Education, or

(4) State educational authorities

(for a complete listing refer to 45CFR 99. 31a)

M. (P.L. 94-142 § 121a 572) Safeguards

1. Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.
2. One official at each participating agency shall assume responsibility for insuring the confidentiality of any personally identifiable information.
3. All persons collecting or using personally identifiable information must receive training or instruction regarding the state's policies and procedures under § 121a129 of Subpart B and Part 99 of this title.
4. Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

N. (P.L. 94-142 § 121a 573) Destruction of information

1. The public agency shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.
2. The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

Comment: Under section 121a 573 of P.L. 94-142 regulations, the personally identifiable information on a handicapped child may be retained permanently unless the parents request that it be destroyed. Destruction of records is the best protection against improper and unauthorized disclosure. However, the records may be needed for other purposes. In informing parents about their rights under this section, the agency should remind them that the records may be needed by the child or the parents for social security benefits or other purposes. If the parents request that the information be destroyed, the agency may retain the information in paragraph (b).

The reader is referred to 45CFR 99.1 through 99.67, the implementing regulations of the Family Educational Rights and Privacy Act (FERPA), and to 45 CFR 121a 560 through 121a 576, the regulations of Public Law 94-142, for a complete presentation of the complex area of confidentiality and access to educational records.

VII. What are some of the provisions found in Louisiana law and regulations regarding confidentiality? (La. reg. § 473)[2]

The Louisiana regulations in the section on confidentiality of information contains language similar to the federal statute. There are some differences worth noting:

A. "School board" is used instead of education agency, "a party

acting for the school board" instead of "participating agency".

B. The school board must comply with parental requests to inspect and review records without delay and before any meeting regarding an individual education program or hearing relating to the identification, evaluation, or placement of the child, and in no case more than thirty (30) operational days after the request. Other provisions under the Louisiana regulations, section 473, are similar to those in the federal regulations discussed in the previous section.

VIII. What then, in summary, are the rights and protections of P.L. 94-142 (which, for the most part, are also affirmed in Section 504) that must be guaranteed?[1]

A. P.L. 94-142 makes a number of critical stipulations to which the state and its local and intermediate educational agencies must adhere:

1. Assurance of the availability of a free appropriate public education for all handicapped children, such guarantee of availability no later than certain specified dates
2. Assurance of the maintenance of an individualized education program for all handicapped children
3. A guarantee of complete procedural safeguards
4. The assurance of regular parent or guardian consultation
5. Assurance of nondiscriminatory testing and evaluation
6. Assurance of special education being provided to all handicapped children in the "least restrictive" environment
7. A guarantee of policies and procedures to protect the

confidentiality of data and information

8. Assurance of an effective policy guaranteeing the right of all handicapped children to a free appropriate public education at no cost to parents or guardian

9. Assurance of a surrogate to act for any child when parents or guardians are either unknown or unavailable or when a child is a legal ward of the state

B. It is most important to observe that an official, written document containing all of these assurances is now required (in the form of an application) of every school district receiving its federal entitlement under P.L. 94-142. Correspondingly, such a public document also exists at the state level in the form of the annual state plan, which must be submitted to the U.S. Commissioner of Education.

X. What, in summary, are the rights and protections under the Louisiana law and regulations?[2]

Louisiana Act 754 and the regulations include those points highlighted in the answer to the preceding question. It is recommended that a parent, child advocate, or surrogate parent read subsection 470 through 478 of the regulations for a complete description.

XI. How do the State regulations define "full and effective notice"? (La. reg. § 470)

Full and effective notice is written notice which

A. Contains a full explanation of all the procedural safeguards available to the parents, including confidentiality

requirements

B. Describes the proposed (or refused) action, an explanation of the reasons for such action and a description of any options which were considered and rejected

C. Describes each evaluation procedure, test, record or report used as a basis for the action and any other relevant factors

D. Identifies the employee or employees of the school board who may be contacted

E. Is written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent unless clearly unfeasible

F. Is also communicated orally (when necessary) in the native language or other mode of communication so that the parent understands the content of the notice

XII. How is consent defined?[2]

A. The federal regulations (P.L. 94-142 §/2/a500 define "consent" to mean that

1. The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;

2. The parent understands and agrees in writing to carrying out the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) which will be released and to whom; and

3. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

The Louisiana regulations (§ 471) define consent in similar language. It is stated explicitly that "formal parental approval" or "disapproval" is written approval or disapproval for the proposed action.

XIII. What is required when an exceptional child is located? (§ 410-423

Notification is necessary when an exceptional child has been located and proposed for further testing or for an independent evaluation.

XIV. What is required for the evaluation? (§ 430-439)

Notification and consent are necessary before any evaluation of the child can be made. Before a child is tested or evaluated to determine whether he/she is handicapped, the parents must agree, in writing, that they have been informed of all the relevant information outlined under "full and effective notice," understand it, and voluntarily agree to the evaluation.

If the parent refuses to consent to an evaluation, the school district may request a hearing to challenge the action. If the hearing officer determines that there is a need for evaluating the child, the parent, in turn, can challenge the decision of the hearing officer by requesting a state review. If the decision to evaluate is reconfirmed and the parent wishes to challenge the outcome of the state review, he/she can take the case to civil court - state or federal

The child, if already enrolled, may remain in the current educational placement pending a final decision of the hearing or review

process. The parents and school may agree otherwise.

If not enrolled, the child has a right to be placed, with the consent of the parents, in a public school program operated by a school board until a final decision of the hearing and review process (La. reg. § 472 (i) and (j)).

XV. What about the IEP? (La. reg. § 440-447)

A. In order to insure that one or both parents attends the IEP development meeting, school boards and Special School District No. 1 must provide parents full and effective notice sufficiently in advance of the meeting to permit parents time to plan to attend.

The purpose, time, location, and persons who are attending must be scheduled at a mutually agreed upon time.

B. "If neither parent can be contacted or both refuse or fail to attend a meeting, other methods must be used to insure parent participation:

1. "Staff of school systems must make all reasonable efforts to meet personally with one or both parents and provide full and effective communication, both orally and in writing, regarding the IEP objectives and procedures and the need for parental participation.

2. "If the above efforts to communicate are unsuccessful, staff of school systems must make every effort to reach one or more parents by telephone, followed by a certified letter, to discuss IEP objectives and procedures and the need for parental participation.

3. "If the procedures in 1 and 2 are unsuccessful, staff of school districts shall issue notice of intent to refer to child welfare. Referral will be made ten operational days after the notice is sent."

C. At the IEP development meeting, the parent/surrogate signs the first page of the IEP to show that he/she has attended the meeting. The signature does not indicate acceptance of the IEP as developed by IEP committee or the school board. The parent/surrogate must be informed of his/her right to the complaint procedure and to a hearing if a disagreement about the IEP cannot be resolved at the IEP meeting, or other informal meetings.

XVI. Does a child have a right to an independent evaluation? (La. reg. § 472; and § 121a503,b of regs. for P.L. 94-142)[2]

Should a child or the parent/surrogate parent disagree with the public evaluation done by the school, the child has a right to an independent evaluation at public expense. However, the school board may initiate a hearing to show that its evaluation is appropriate. If the school refuses to schedule another evaluation, the parents should be notified of such refusal; however, unless the school can prove at a hearing that its first evaluation was appropriate, the independent evaluation must be at public expense. A hearing officer may also request an evaluation must be at public expense. Should the hearing officer find that the school's first evaluation was appropriate, the parents may still have an independent evaluation, but at their own expense. The second evaluation must

be given as much consideration as the first. Regardless of who pays for the independent evaluation, the school must give the parents assistance in locating another evaluating team.

XVII. What rights does the child have with regard to educational records? (La. reg. § 472(e), 473)[2]

If a parent requests access to the child's school records, the school district must comply without unnecessary delay, and in any event, before any meeting regarding an IEP or hearing relating to the identification, evaluation, or placement of the child. In no case can more than 30 operational days pass from the date of request to the date of compliance. This includes the right to have an authorized representative inspect the records. Copies of records must be furnished to parents, but there may be a small reproduction fee unless parents can show that paying such a fee would effectively hinder their right to inspect and review the records. Also included is the right to inspect and review the child's evaluation as a part of the school record. Parents are entitled to a personal consultation with an evaluation team member and to submit all relevant evidence that may aid evaluation performance. Further, parents are entitled to a full written explanation of the findings of the evaluation and an oral explanation (effectively communicated) of the findings and recommendations. Likewise, the school must also explain and interpret all the material in its records to the parents and/or representatives in whatever mode of communication is understandable to them.

XVIII. When does a child have a right to an impartial hearing? (La. reg. § 476-478)[2]

A. The child has the right

> to present complaints with respect to any matter relating to the identification, evaluation, or educational placement, or the provision of a free appropriate public education.
> (P.L. 94-142 § 615 (6) (2); also Act 754 § 1952 (B)(5))

B. Examples of instances when the child has a right to a due process hearing are

1. When ineffective notice is sent
2. If uniformed or invaild consent is given
3. When the parents refuse to consent or to give formal approval of any proposed action regarding
   a) an evaluation,
   b) the IEP, or
   c) the child's placement
4. When the school refuses to make changes requested by the parents regarding the evaluation, IEP, or placement

XIX. What are the child's rights throughout the hearing process? (La. reg. § 476-478)

The rights in the hearing include:

A. The right to question and challenge the impartiality of the hearing officer

B. The right to written notice of the date, time and place of the hearing (at a time and location also reasonably convenient to the parent(s))

C. The right to be accompanied and advised by counsel and by individuals with special knowledge or training regarding educational issues and due process hearings.

D. The right to present evidence (independent evaluations, medical, educational documents and witnesses) and to confront, cross examine, and compel the attendance of witnesses

E. The right to know what evidence the school intends to present at the hearing at least five days in advance of the hearing (the parents must also disclose their evidence to the school five days in advance)

F. The right to a decision within 30 days after the final appointment of the hearing officer and to written findings of fact and decisions made at the hearing

G. The right to obtain a written or electronic record of the hearing (there may be a small reproducing fee for this record)

H. The right to appeal should either party disagree with the hearing officer's findings, and

I. The right of the child to remain in his/her present status until the completion of all these proceedings unless the parents and LEA agree otherwise. If the child has not yet been enrolled in school, the child may attend a regular class with the consent of the parents.

XX. How should the parent or surrogate parent prepare for a hearing? (This material is not contained in the regulations.)

Parents should excerise their rights and review all educational

records on their child and also be familiar with those the school intends to present at the hearing. In addition, copies of any documents that the parents intend to give the hearing officer should be made in advance. For the sake of organization and efficiency, a brief statement of the issue should be prepared so the hearing officer better understands the position of the parents. The hearing officer's decision is limited to those facts presented in the hearing so the parties must "prove" their case with facts such as by medical, behavioral, educational or professional documentation or testimony. Emotional arguments and unverified personal opinion, although sympathetic, may not be factual. The most persuasive cases are those in which independent objective testimony and/or documents support the parent's position and the parents can indicate precisely what parts of this evidence they want the hearing officer to consider. Likewise, cross-examination of the other party's witnesses can also be useful in bringing out relevant facts. A parent may also use school records to demonstrate or prove his/her case. Every effort should be made to state all the facts at the hearing since it becomes the parent's "record" should review or appeal become necessary later.

If the issue is one of ineffective notice, consent, or failure of the school to provide other due process safeguards, the parents should be prepared to demonstrate this.

Many hearings revolve around complex educational questions. Parents may need to tap other sources to help them prepare for the hearing. Children's advocacy groups, parent groups, other

knowledgeable parents or lay advocates and even attorneys may provide free and valuable assistance in helping a parent prepare for the hearing.

XXI. What is the appeal procedure? (P.L. 94-142 § 120-123)

A. If a parent disagrees with the decision made at the hearing, he or she has a right to an administrative appeal to the Board of Elementary and Secondary Education (BESE) for another impartial review of the hearing. Within 30 calendar days after receiving the decision, the appeal must be requested by registered letter to the opposing party.

The review panel must include at least three (3) persons knowledgeable about the educational and legal issues involved. One or more members of the panel must be a current member of the State Board.

B. The review panel must:

1. Examine the entire hearing record
2. Check that the procedures at the hearing were fair and consistent with the requirements of due process, such as, adequate notice and consent
3. Give the parties another opportunity for oral or written argument, and
4. Make an independent decision on the completion of the review.

C. If a parent disagrees with the decision made by BESE

review panel after an administrative appeal, he/she has a right to bring civil court action to force review of the administrative proceedings record. The suit is heard in a state court of proper jurisdiction, or in the U.S. District Court.

XXII. What is the Complaint Procedure?

A. The State Department of Education, Division of Special Educational Services, is prensently developing a system to process compliants resulting from mandated educational services for exceptional children in Louisiana. Grievances leading to the filing of complaints regarding violations of Public Law 94-142, Section 504 of the Vocational Rehabilitation Act, and Act 754 may result from: no services being provided, improper service provisions, inadequate service provisions, and timely service provisions.

B. The Division of Special Educational Services will make every effort to see that the issue(s) involved in the complaint are settled at the local educational level at which the complaint has arisen, or move to resolve the complaint by initiating an investigation by the Division. Should these efforts fail to produce results satisfactory to the aggrieved party and other remedies remain within the range of permitted actions by Public Law 94-142, Section 504 of the Vocational Rehabilitation Act, and Act 754 and their respective regulations, the aggrieved party may seek resolution of his/her complaints in a Due Process Hearing.

C. Complaints may be formal or informal. A formal complaint must be in writing and should be sent to the Assistant Superintendent, Division of Special Educational Services, State Department of Education, Post Office Box 44064, Baton Rouge, Louisiana 70804. An informal complaint may be made by telephone to the Division of Special Educational Services by calling (504) 342-3655.

Surrogate Parents

I. Is the surrogate parent a procedural safeguard? (La. reg. § 474)[2]

Yes. In both federal law (P.L. 94-142 § 615 (6)(1)(B)), and state law (Act 754 § 1952, B,2), the surrogate parent is listed as a safeguard for the educational rights of children whose parents are not known or unavailable, or for children who are wards of the state.

II. What is the role of the surrogate parent? (La. reg. § 474)[2]

A surrogate parent is an individual appointed to protect or safeguard a child's rights in the educational decision-making process when:

A. The parents* or legal guardians are unknown and cannot be ascertained by reasonable diligence or after reasonable inquiry

B. The child is a ward of the state in the custody of a state agency

III. What are some suggested qualifications of a surrogate parent?[2]

A person assigned as a surrogate parent:

A. Must not be an employee of the state or of a local educational agency involved in the education or care of children

B. Must have no other vested interest which may conflict with the interests of the child to be represented

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*as defined in § 121a10 of the regulations for P.L. 94-142 or § 966 of La. Act 754

C. Should be knowledgeable about the educational system, special education laws, and the legal rights of the child in relation to the system

D. Should be reasonably well acquainted with the cultural and language background of the child

E. Should be interested in developing the skills necessary to represent the child adequately

F. Must have the ability to conceptualize and participate intelligently in the evaluation, Individual Education Program (IEP) and placement meetings; must be able to use facts and information to make good judgements regarding the provision of a free appropriate public education to the child.

IV. What are the responsibilities of a surrogate parent?

The responsibilities of a person assigned as a surrogate parent are to:

A. Represent the handicapped child in all aspects of the educational decision-making process concerning that child, including the identification, individual evaluation and educational placement of that child, and the provision of a free appropriate public education

B. Become acquainted with the child's educational needs by

1. Observing the child
2. Reviewing educational records
3. Speaking with teachers, instructors, counselors, etc.

C. Comply with state and federal law concerning confidentiality of all records and information that pertain to the child and to which the surrogate parent is privy

D. Use discretion in necessary sharing of information with appropriate people for the purpose of furthering the interests of the child

E. Receive effective notice of the child's entry into the initial screening process, and become informed of the results (i.e. read the report, meet with teacher(s), etc.)

F. Decide if a proposed assessment program is appropriate

1. If so, to sign a consent for that assessment program, and to assure that the child receives an appropriate assessment

2. If not, to document reasons for refusing to consent

G. Be available for an interpretation of the results of the assessment program and obtain a clear understanding of findings and recommendations

H. Proceed in the same manner as described in paragraphs E, F, and G for each in the event either an individual evaluation or a medical assessment is considered

I. Represent the child at the IEP conferences and participate in the IEP development by talking about the child's behavior, special habits, how the child gets along with siblings and other children; the child's likes and dislikes; how the child compares in size with other children his/her age; the child's motor development; the child's self-help skills

The surrogate parent participates also by giving suggestions and recommendations in defining educational goals and objectives, and the desirable ultimate outcome for the child; and by giving other observations that may help in developing the child's individual education program.

J. Represent the child in the educational components of the Individual Program Plan (IPP), Individual Service Plan (ISP), Individual Habilitation Program (IHP), Individual Written Rehabilitation Program (IWRP), or Individual Treatment Plan (ITP)

NOTE: Surrogate parents are responsible and have authority solely with regard to the special educational aspects of their assigned child. A surrogate parent's signature is limited to the educational program and the educational placement within that educational program. Although a surrogate parent may be present and participate in the staffings of an ITP, ISP, IPP, IHP, or IWRP only the educational aspects (and those related services that would affect or benefit education) are under the purview of the surrogate parent. At no time is a surrogate parent to be asked to authorize medical treatment plans. Moreover, residential placement is decided by the Office of Human Development (OHD), through the Regional Review Committee of the OHD client placement system. Residential placement is considered for those students whose human service needs require a twenty-four hour program

of active treatment, care and/or habilitation.

The surrogate parent's input is required at the time for child's IEP is developed whether it is before or after residential placement.

The child's educational placement may be within the residential facility if

1. The type of educational program described in the finalized IEP can be provided at the residential facility, and
2. If it is jointly agreed at the IEP conference that such an educational placement would be appropriate for the student and would be within the Least Restrictive Environment.

The child's educational placement may be outside of a residential facility if

1. The type of educational program described in the finalized IEP cannot be provided at the residential facility, and/or
2. The education described in the IEP can be provided in a regular school setting, with support services, and
3. It is jointly agreed at the IEP conference that such an educational placement would be appropriate for the child and would be the Least Restrictive Environment.

K. Sign the first page of the IEP form to indicate attendance of the meeting; sign where indicated on the form to show acceptance of the proposed IEP

L. Give formal approval of the educational placement, if appropriate

M. Participate in an annual review of the child's IEP

N. Negotiate with the LEA if there is disagreement with regard to any of the above

O. Call for a due process hearing if all conciliatory avenues have not brought about a resolution of a disagreement concerning identification, evaluation, or educational placement of the child; or the provision of a free appropriate public education of the child

P. Represent the child at a due process hearing and throughout the appellate procedures, for example

1. First, attempt to conciliate disagreements with the school board, i.e., to meet with school officials and work at resolution of differences based on the child's needs - as expressed by evaluators, teachers, doctors, special education professionals, etc. - and what can be reasonably provided by the school system and other agencies
2. Follow the complaint procedures available as a right to exceptional children if conciliatory meetings fail
3. Request, in writing, a due process hearing through the parish supervisor of special education
4. Make an orderly presentation of facts at the due process hearing. It may be advisable to seek counsel or help of someone experienced in due process hearings
5. Gather or help to gather whatever useful data, letters,

evaluations, records and other factual evidence would aid in the presentation of the child's case

6. Mobilize the resources needed for a fair, adequate, and factual presentation of the child's case
7. Abide by the rules outlined by the hearing officer
8. Abide by the recommendations of the hearing officer, or
9. Appeal the case to the State Board of Education for a review if the surrogate parent feels the child is aggrieved by the findings and decisions at the hearing
10. Bring a civil action in any state court of competent jurisdiction or in a district court of the United States if the surrogate parent feels the child is aggrieved by the findings and decision of the state review.

Q. Periodically report ot the SSP his/her activities relating to representation of the child

V. What are the liabilities of a surrogate parent?

Title 17 of the Louisiana Revised Statutes of 1950, amended by Act 597 of the 1979 legislature, limits liability to certain public school employees, as well as to persons appointed as surrogate parents. Section 1958 (B) and (C) read "No individual appointed according to state and federal law to serve as a surrogate parent who in good faith performs the functions of such appointments ... shall be liable for any civil damages as a result of any act or omission in rendering services in accordance with

the function of said appointments. This Section (C) shall not exempt from liability those individuals who intentionally or by grossly negligent acts or omissions cause damages to an exceptional child or other individual participating in a special education program."

Summary

SUMMARY

Education for handicapped students has become a basic right as a result of court action and legislation. Handicapped persons are to be given an equal opportunity to learn in the educational system of this country.

This manual discusses the basic thrusts and objectives of two pieces of legislation that have become the law of the land with regard to special education: Public Law 94-142 of 1975, amending Part B of P.L. 93-380 of the preceding year; Section 504 of the Vocational Rehabilitation Act amendments of 1973; and in Louisiana, Act 754.

These laws and statutes call for the provision of education that is free to the handicapped person and that is appropriate for his/her needs. The education system is under obligation to seek out, locate, and identify children who are in need of special education. Entrance into special education is made through various screening procedures including an individual evaluation.

Once it is determined that a child needs special education, a plan responsive to his/her individual educational needs must be developed by a committee of closely allied persons. The educational environment must be one in which the child can best learn.

To protect the child in all these procedures, there are various safeguards on which the child or his/her parent can rely to insure that the special education program is appropriate to the child's

educational needs.

A surrogate parent is a vital procedural safeguard for a child without his most natural advocate.

It is for these children, with their extra special needs, that this manual is designed.

SURROGATE PARENT TRAINING SEMINAR

- TRANSPARENCY MASTERS -

Surrogate Parent Program

Training Seminar

(Sample Agenda)

3½ hrs.

	Minutes	Items
I.	15	Introductions; review training materials and agenda
II.	15	Objectives of P.L. 94-142, Act 754
III.	90	The special education process - identification - evaluation - individual education program - placement and related services
	10	Break
VI.	30	The surrogate parent role - why and when - roles, rights, responsibilities - screening and training - matching and assignment
V.	30	Due Process - notice - consent - rights and protections - conciliation - administrative remedies - due process hearing
VI.	15	Wrap up - adjournment

SURROGATE PARENT PROGRAM

Training Seminar
(Sample)
Roll Sheet

Date: _____ Time: _____

Location: _____

Instructors: _____

_____

_____

Participants: Name	Mailing Address/Phone	Agency/ Position	Parent? Foster Parent? Volunteer?	If Foster Parents: Child's Name

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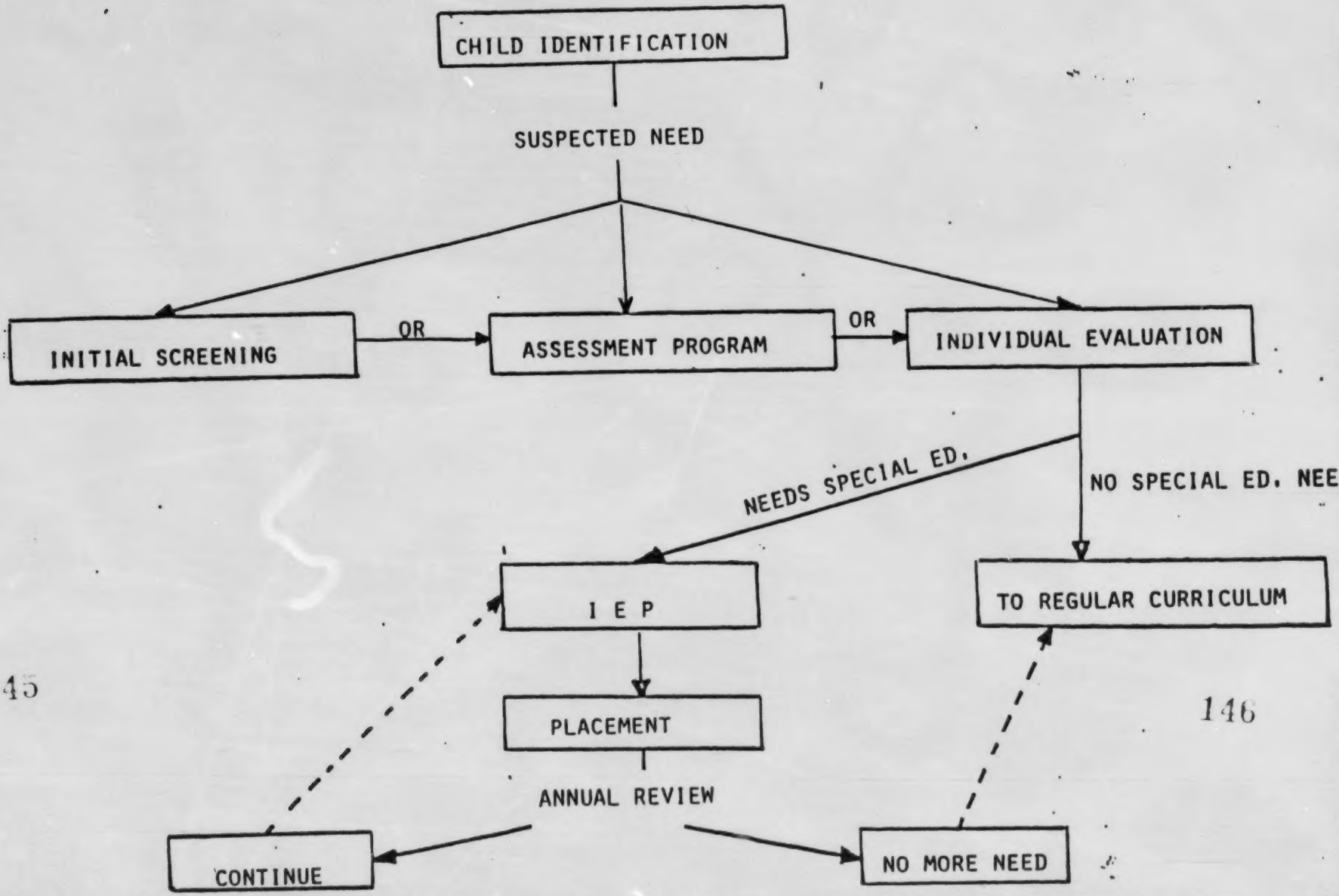
OBJECTIVES OF P.L. 94-142 & ACT 754

1. TO GUARANTEE SPECIAL EDUCATION TO EXCEPTIONAL CHILDREN
2. TO ASSURE FAIRNESS IN PROVIDING SPECIAL EDUCATIONAL SERVICES
3. TO ESTABLISH CLEAR STATEWIDE MANAGEMENT OF PROCEDURES AND SERVICES
4. TO ESTABLISH FUNDING FOR SPECIAL EDUCATION SERVICES
5. TO SET THE GOAL OF A FREE APPROPRIATE PUBLIC EDUCATION IN THE LEAST RESTRICTIVE ENVIRONMENT TO ALL HANDICAPPED CHILDREN

SPECIAL EDUCATION PROCESS



IDENTIFICATION

EXCEPTIONALITIES:

P.L. 94-142

- MENTALLY RETARDED
- HARD OF HEARING
- DEAF
- ORTHOPEDICALLY IMPAIRED
- SPEECH IMPAIRED
- VISUALLY HANDICAPPED
- SERIOUSLY EMOTIONALLY DISTURBED
- DEAF-BLIND
- MULTI-HANDICAPPED
- LEARNING DISABLED

ACT 754

- GIFTED AND TALENTED
- EDUCATIONALLY HANDICAPPED OR SLOW LEARNING
- SEVERE LANGUAGE DISORDERED
- AUTISTIC
- HOSPITAL/HOME BOUND

CHILD SEARCH:

- SEARCH ACTIVITIES
- INITIAL SCREENING
- ASSESSMENT PROGRAM
- INDIVIDUAL EVALUATION

ASSESSMENT AREAS:

ACADEMIC ACHIEVEMENT

SOCIAL ADAPTATION

PREVOCATIONAL & VOCATIONAL SKILLS

PSYCHOMOTOR SKILLS

SELF-HELP SKILLS

ASSESSMENT METHODS

CRITERION-REFERENCED OR OBJECTIVE-REFERENCED TESTS

INFORMAL SKILLS INVENTORIES

TEACHER OBSERVATION

ADAPTIVE BEHAVIOR SCALES

STANDARDIZED ACHIEVEMENT OR DIAGNOSTIC TESTS

INTERVIEWS WITH THE CHILD AND THE PARENTS

THE INDIVIDUAL EVALUATION

WHAT IT IS —

- DIAGNOSES WHAT IMPAIRMENT CHILD HAS
- ASSESSES ITS EFFECT ON LEARNING
- RECOMMENDS TYPES OF SPECIAL EDUCATION AND RELATED SERVICES
- IS AN <u>INDIVIDUAL</u> EXAMINATION - NOT A GROUP TEST

THE INDIVIDUAL EVALUATION

WHO CONDUCTS IT - -

A MULTIDISCIPLINARY TEAM:

- AT LEAST 2 PROFESSIONALS
  AN EDUCATIONAL CONSULTANT
  A CLASSROOM TEACHER OR OTHER INSTRUCTIONAL STAFF PERSON
  A PERSON CERTIFIED AS A QUALIFIED EXAMINER

- SUCH PROFESSIONALS AND EXAMINERS AS WOULD GIVE A COMPLETE PICTURE (E.G. PHYSICIAN, AUDIOLOGIST, OPTOMETRIST, PSYCHOLOGIST, SPEECH PATHOLOGIST, ETC.)

THE INDIVIDUAL EVALUATION

PRODUCT - -

A WRITTEN REPORT WITH INPUT OF ALL EXAMINERS TO INCLUDE:

- TESTS ADMINISTERED
- PRESENT LEVEL OF FUNCTIONING
- RECOMMENDED TYPES OF SERVICES

TO BE GIVEN TO:

- THE LEA (DEPARTMENT OF SPECIAL EDUCATION; SCHOOL IF KNOWN), AND
- A SUMMARY AND INTERPRETATION TO BE GIVEN TO THE PARENT/SURROGATE

INDIVIDUAL EDUCATION PROGRAM

I. E. P.

A WRITTEN DESCRIPTION OF SPECIAL EDUCATION AND RELATED SERVICES FOR EACH, INDIVIDUAL HANDICAPPED CHILD TO BE DEVELOPED AT A MUTUALLY CONVENIENT TIME AND PLACE BY --

- AN LEA REPRESENTATIVE (PRINCIPAL OR OTHER)
- TEACHER(S)
- PARENT/SURROGATE
- EVALUATION SPECIALISTS OR PERSONNEL
- THE CHILD (WHEN APPROPRIATE)
- OTHER INDIVIDUALS INVITED BY THE LEA OR THE PARENT

IEP COMPONENTS

1. STATEMENT OF PUPIL'S PRESENT LEVEL OF PERFORMANCE
2. STATEMENT OF ANNUAL GOALS
3. STATEMENT OF SHORT-TERM INSTRUCTIONAL OBJECTIVES WITH PROJECTED TIMELINES FOR ACHIEVEMENT
4. STATEMENT OF SPECIAL EDUCATION & RELATED SERVICES, WHY THESE SERVICES ARE MOST APPROPRIATE, WHEN THEY ARE TO BE PROVIDED, AND WHO IS TO PROVIDE THEM
5. STATEMENT SPECIFYING EXTENT TO WHICH PUPIL PARTICIPATES IN REGULAR PROGRAM
6. STATEMENT OF PROJECTED DATES FOR INITIATION AND DURATION OF SERVICES
7. STATEMENT OF OBJECTIVE CRITERIA & EVALUATION PROCEDURES TO DETERMINE WHETHER OBJECTIVES ARE BEING ACHIEVED
8. END OF YEAR SUMMATIVE EVALUATION OF SERVICES AND DATE

INDIVIDUALIZED EDUCATION PROGRAM

LOUISIANA STATE DEPARTMENT OF EDUCATION

Student_____ DOB_____ Exceptionality_____

Committee Members Present
(Signatures/Position)

1) _____

_____

_____

_____

_____

2) _____

_____

_____

_____

_____

3) _____

_____

_____

_____

_____

Individual Evaluation Report: ___/ ___/ ___Date

Evaluation due: ___/ ___/ ___Date

___Rec'd by parents ___Discussed

Present Levels of Functioning

Date_____Grade_____

School_____

Date_____Grade_____

School_____

Date_____Grade_____

School_____

___Discussed progress toward goals

___Discussed progress toward goals

Teacher (White copy) Parent 1st year (Golden copy) Parent 2nd year (Pink copy) Parent 3rd year (Canary copy)

INDIVIDUALIZED EDUCATION PROGRAM

LOUISIANA STATE DEPARTMENT OF EDUCATION

Student _____ DOB _____ Exceptionality _____

Long-Term Educational Goals:

___ Maintain physical and social well-being
___ Personal self-sufficiency
___ Partial ___ Complete
___ Skill development necessary for competitive employment
___ Literacy
___ Other _____

Ultimate Educational Outcomes:

___ Maintain physical and social well-being
___ Economic usefullness
___ Modified high-school
___ High School Diploma
___ Modified diploma
___ Vocational Skills
___ College
___ Other _____

Overall Educational Needs:

___ Regular classroom instruction
___ Specially designed instruction
___ Residential Program
___ Related support services
___ Other _____

___ Discussed how progress toward goals will be measured

Comments: _____

Annual Goals: The student will...	(State any barriers that might affect goal achievement)	Persons(s) Responsible	Date Revised/ Completed

Teacher (White Copy) Parent 1st yr. (Golden copy) Parent 2nd yr. (Pink copy) Parent 3rd yr. (Canary copy)

INDIVIDUALIZED EDUCATION PROGRAM

LOUISIANA STATE DEPARTMENT OF EDUCATION

Student _____ DOB _____ Exceptionality _____ Date _____

Committee Decisions

A. Placement for Instruction:
Based on a review of the student's present levels of performance, his projected goals and his educational needs, this committee thinks that the student will have the best opportunity for success in the following program:

Program _____ Comments (if any) _____

Expected Time:	Instruction per yr.:	Physical Educ. class:	Type placement selected:
___less than one yr. ___1yr.	9 mos. ___longer	Regular ___Special*	___Regular class
___more than two yrs. ___2yrs.	*Give Time/Provisions	*Give type Instruction	___Regular class/Resource
			___Self-contained class/reg.
Regular class:			___Self-contained class
% of Time _____ weekly			___Hospital/Homebound
			___Residential Program
			___Other

B. Related Services (Check if provided more than school year) **Responsible Agency **Role of Agency **Responsible Person

** Parents may sign before these items are completed.

C. **Type Instructional Personnel Qualifications

D. Bilingual Educ.: No ___ Yes* *Give needs

E. Migrant Student: No ___ Yes* *Give needs

F. Person Responsible for Overall Implementation
___Parish Supervisor
___Other (give position) _____

G. Estimated TOTAL COST from school district funds to implement this IEP (include related services not paid in full by other agencies)

H. Comments: _____

After discussing my child's special education needs, I approve this proposed IEP.

_____ (Date) _____ (Parent/Guardian

I agree to ensure that the program and services described in this IEP are provided.

_____ (Date) _____ (Supervisor/Designator)

_____ (Receiving Teacher's Signature)

INDIVIDUALIZED EDUCATION PROGRAM

IEP 4

LOUISIANA STATE DEPARTMENT OF EDUCATION

Short Term Objectives

From __/__/__ (Date) to __/__/__ (Date)

Student _____ DOB __/__/__ School _____

Special Program/Support Service(s) _____ Teacher _____

Code	To meet goal	Given these conditions...	The student will be able to... (State skill, behavior, performance)	Evaluation criteria 1. Performance Standrd 2. Measurement Instrmt	Comments

161

162

State any barriers that may affect student's meeting stated objectives

Teacher (white copy) Parent (with comments, canary copy) Parent (without comments, pink copy)

GUIDELINES FOR SETTING GOALS

1. A GOAL SHOULD REQUIRE A CHANGE ON THE PART OF THE CHILD

2. THERE SHOULD BE A MATCH BETWEEN THE STUDENT'S NEEDS AND THE GOALS WHICH ARE ESTABLISHED FOR HIM

3. SELECTION OF APPROPRIATE GOALS SHOULD BE AN INTERDISCIPLINARY EFFORT

CHILD PARENT TEACHERS SPECIALISTS

COMPONENTS OF AN INSTRUCTIONAL OBJECTIVE

1. OBSERVABLE BEHAVIOR

2. CONDITIONS UNDER WHICH THE BEHAVIOR WILL BE PERFORMED

3. STANDARD OR CRITERIA WHICH MINIMUM PERFORMANCE REQUIRED

OBSERVABLE BEHAVIOR

....IS MEASURABLE BY OBJECTIVE MEANS

....CAN DETERMINE WHETHER OR NOT THE OBJECTIVE HAS BEEN ACHIEVED

WRITE	UNDERSTAND	BELIEVE	POINT	REALIZE
SAY	READ	KNOW HOW	PUT ON	
LISTEN	LOOK AT	APPRECIATE	COMPUTE	PURCHASE

LEAST RESTRICTIVE EDUCATIONAL ENVIRONMENT

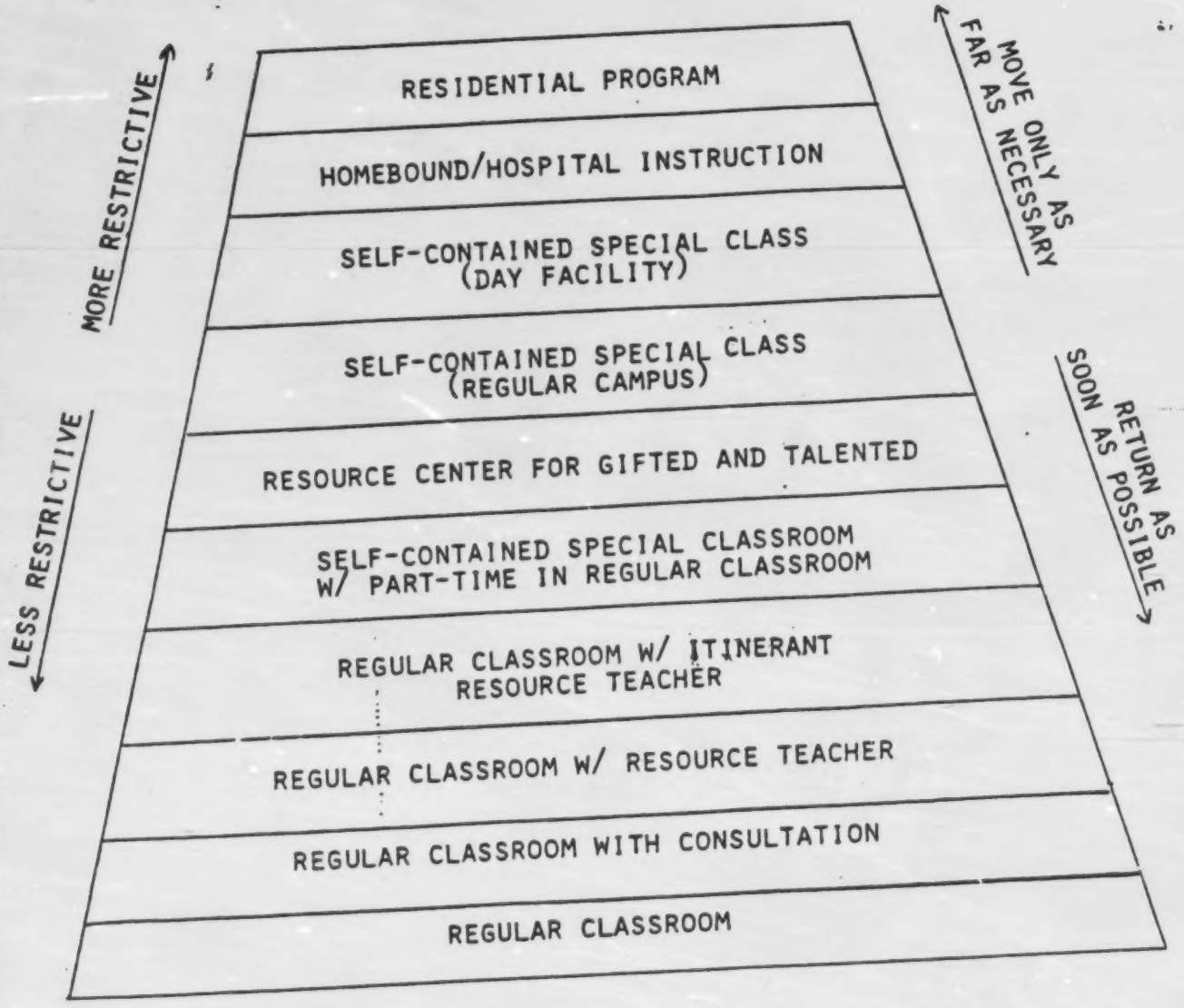
WHAT IT IS NOT

* NOT A PROVISION FOR MAINSTREAMING
* NOT A MANDATE TO PLACE ALL HANDICAPPED CHILDREN IN THE REGULAR CLASSROOM

WHAT IT IS

* THE EDUCATION OF HANDICAPPED WITH NONHANDICAPPED "TO THE MAXIMUM EXTENT APPROPRIATE"
* THE IEP IS USED TO DETERMINE THE UNIQUE NEEDS OF THE CHILD
* THE IEP SHOWS CAUSE IN MOVING A CHILD FROM A LESS RESTRICTIVE TO A MORE RESTRICTIVE ENVIRONMENT

EDUCATIONAL PLACEMENT


MORE RESTRICTIVE
LESS RESTRICTIVE
MOVE ONLY AS FAR AS NECESSARY
RETURN AS SOON AS POSSIBLE
RESIDENTIAL PROGRAM
HOMEBOUND/HOSPITAL INSTRUCTION
SELF-CONTAINED SPECIAL CLASS (DAY FACILITY)
SELF-CONTAINED SPECIAL CLASS (REGULAR CAMPUS)
RESOURCE CENTER FOR GIFTED AND TALENTED
SELF-CONTAINED SPECIAL CLASSROOM W/ PART-TIME IN REGULAR CLASSROOM
REGULAR CLASSROOM W/ ITINERANT RESOURCE TEACHER
REGULAR CLASSROOM W/ RESOURCE TEACHER
REGULAR CLASSROOM WITH CONSULTATION
REGULAR CLASSROOM

LEAST RESTRICTIVE ENVIRONMENT

CHILD'S NAME _____ DATE _____

DATE OF BIRTH _____

STUDENT WILL BE PLACED IN A REGULAR CLASS WITH SUPPORTIVE SERVICES.

YES _____ NO _____

EXPLAIN: _____

_____

STUDENT WILL BE PLACED IN A REGULAR CLASS WITH UP TO 3 HOURS OF INSTRUCTIONAL TIME IN A RESOURCE ROOM.

YES _____ NO _____

EXPLAIN: _____

_____

STUDENT WILL BE PLACED IN A SELF-CONTAINED CLASS ON A REGULAR SCHOOL CAMPUS.

YES _____ NO _____

EXPLAIN: _____

_____

STUDENT WILL BE PLACED IN A SELF CONTAINED CLASS ON A SPECIAL SCHOOL CAMPUS.

YES _____ NO _____

EXPLAIN: _____

_____

STUDENT WILL RECEIVE HOSPITAL/HOMEBOUND INSTRUCTION IN THE HOSPITAL OR IN THE HOME.

YES _____ NO _____

EXPLAIN: _____

_____

INSTRUCTION: IF AN ITEM IS CHECKED YES, AN EXPLANATION MUST BE GIVEN AND ALL ITEMS CHECKED NO PRECEDING IT MUST BE EXPLAINED. EXPLANATION MUST FOCUS ON THE LRE POLICY. SEE FY1978, 1979, & 1980 AAPP. LEA APPLICATION -754 REGULATIONS.

SPECIAL EDUCATION AND RELATED SERVICES

- CLASSROOM INSTRUCTION
- INSTRUCTION IN NONCLASSROOM SETTINGS INCLUDING HOMEBOUND INSTRUCTION
- SOCIAL, AND PERSONAL HABILITATION SERVICES
- PRESCHOOL STIMULATION
- OTHER SPECIALLY DESIGNED INSTRUCTION
- PHYSICAL THERAPY
- OCCUPATIONAL THERAPY
- RECREATION OR RECREATIONAL THERAPY
- SPEECH PATHOLOGY
- AUDIOLOGY
- ATHLETICS
- PHYSICAL EDUCATION OR ADAPTIVE P.E.
- DIAGNOSTIC AND EVALUATIVE MEDICAL AND HEALTH SERVICES
- SCHOOL HEALTH AND NUTRITION SERVICES
- THE PROVISION OF PROSTHETIC, ORTHOTIC, OR OTHER ASSISTIVE DEVICES AND RELATED SERVICES
- POST-INSTITUTIONALIZATION FOLLOW-ALONG SERVICES
- PREVOCATIONAL AND CAREER DEVELOPMENT SERVICES
- PSYCHOLOGICAL SERVICES
- COUNSELING SERVICES
- SOCIAL AND SOCIAL WORK SERVICES
- INTERPRETER AND READER SERVICES
- PARENT COUNSELING AND TRAINING
- FACILITATING SERVICES, INCLUDING TRANSPORTATION
- ROOM AND BOARD (WHEN RESIDENTIAL PLACEMENT)
- NONMEDICAL CARE (WHEN RESIDENTIAL PLACEMENT)

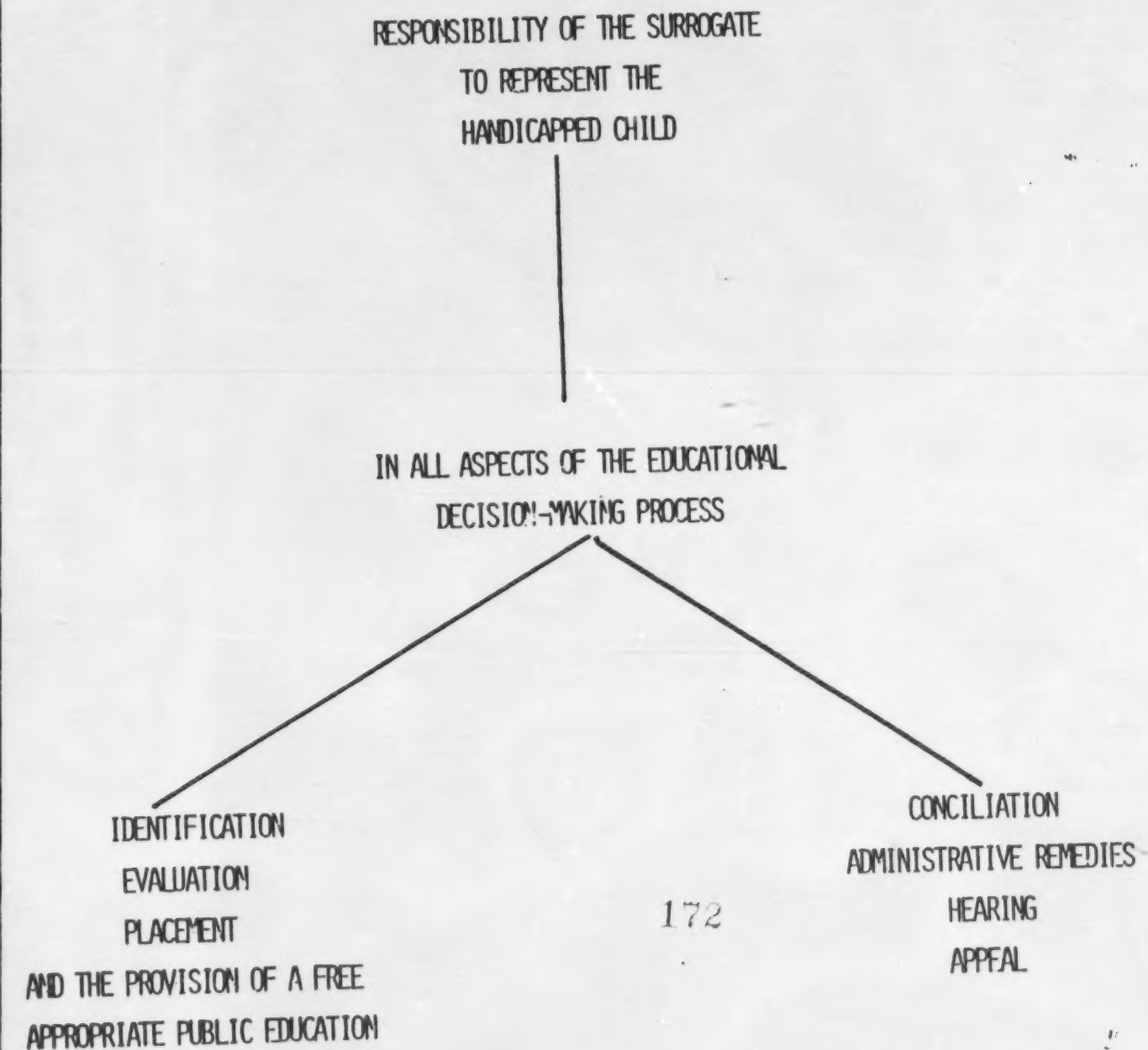
ROLE OF A SURROGATE PARENT

- TO PROTECT RIGHTS OF A CHILD WHEN PARENTS OR GUARDIANS ARE NOT KNOWN, UNAVAILABLE, OR CHILD IS A WARD OF THE STATE

- ACT AS A CHILD'S ADVOCATE IN THE EDUCATIONAL DECISION-MAKING PROCESS

QUALIFICATIONS OF A SURROGATE PARENT

- CANNOT BE A PRESENT OR PAST EMPLOYEE OF THE SCHOOL BOARD INVOLVED IN THE EDUCATION OR CARE OF THE CHILD
- MUST HAVE NO INTEREST THAT CONFLICTS WITH THE INTERESTS OF THE CHILD
- MUST HAVE ADEQUATE KNOWLEDGE AND SKILLS WHICH INSURE ADEQUATE REPRESENTATION OF THE CHILD
- MUST BE AN ADULT 18 YEARS OR OLDER
- SHOULD BE A PERSON WHO IS ACTIVELY CONCERNED WITH THE RIGHTS OF CHILDREN
- SHOULD BE A PERSON WHO CAN TAKE TIME AWAY FROM HIS/HER NORMAL ROUTINE TO ATTEND MEETINGS RELATED TO THE EVALUATION, EDUCATIONAL PROGRAM, PLACEMENT, OR NEGOTIATIONS OF SERVICES FOR THE CHILD
- SHOULD BE A PERSON WHO CAN BE ASSERTIVE IN REPRESENTING THE CHILD
- MUST HAVE THE ABILITY TO CONCEPTUALIZE AND PARTICIPATE INTELLIGENTLY IN THE EVALUATION, INDIVIDUALIZED EDUCATION PROGRAM (IEP) AND PLACEMENT MEETINGS; MUST BE ABLE TO USE FACTS AND INFORMATION TO MAKE GOOD DECISIONS REGARDING THE PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION FOR THE CHILD


RESPONSIBILITY OF THE SURROGATE
TO REPRESENT THE
HANDICAPPED CHILD
IN ALL ASPECTS OF THE EDUCATIONAL
DECISION-MAKING PROCESS
IDENTIFICATION
EVALUATION
PLACEMENT
AND THE PROVISION OF A FREE
APPROPRIATE PUBLIC EDUCATION
CONCILIATION
ADMINISTRATIVE REMEDIES
HEARING
APPEAL

ROLES, RIGHTS, AND RESPONSIBILITIES OF THE SURROGATE PARENT

1. TO REPRESENT THE HANDICAPPED CHILD IN ALL ASPECTS OF THE EDUCATIONAL DECISION-MAKING PROCESS CONCERNING THAT CHILD. THIS INCLUDES IDENTIFICATION, INDIVIDUAL EVALUATION, EDUCATIONAL PLACEMENT AND THE PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION

2. TO BECOME ACQUAINTED WITH THE CHILD'S EDUCATIONAL NEEDS BY
   A. OBSERVING AND SPEAKING WITH THE CHILD
   B. REVIEWING EDUCATIONAL RECORDS
   C. REVIEWING SAMPLES OF THE CHILD'S WORK
   D. SPEAKING WITH TEACHERS, INSTRUCTORS, COUNSELORS, CHILD CARE WORKERS, CASEWORKERS, ETC.

3. TO COMPLY WITH STATE AND FEDERAL LAW CONCERNING CONFIDENTIALITY OF ALL RECORDS AND INFORMATION THAT PERTAIN TO THE CHILD AND TO WHICH THE SURROGATE PARENT IS PRIVY

4. TO USE DISCRETION IN SHARING INFORMATION WITH APPROPRIATE PEOPLE FOR THE PURPOSE OF FURTHERING THE INTERESTS OF THE CHILD

5. TO INSURE THAT EVALUATION AND IEP SESSIONS ARE CONDUCTED BY REPRESENTATIVES FROM APPROPRIATE DISCIPLINES

6. TO RECEIVE EFFECTIVE NOTICE OF THE CHILD'S ENTRY INTO THE INITIAL SCREENING PROCESS, AND BECOME INFORMED OF THE RESULTS (I.E., READ THE REPORT, MEET THE TEACHER(S), ETC.)

7. TO DECIDE IF A PROPOSED ASSESSMENT PROGRAM IS APPROPRIATE
   A. IF SO, TO SIGN A CONSENT FOR THAT ASSESSMENT PROGRAM, AND TO ASSURE THE CHILD RECEIVES AN APPROPRIATE ASSESSMENT
   B. IF NOT, TO DOCUMENT REASONS FOR REFUSING TO CONSENT

8. TO BE AVAILABLE FOR AN INTERPRETATION OF THE RESULTS OF THE ASSESSMENT PROGRAM AND OBTAIN A CLEAR UNDERSTANDING OF FINDINGS AND RECOMMENDATIONS

9. TO PROCEED IN THE SAME MANNER AS DESCRIBED IN PARAGRAPHS #6 #7 AND #8 FOR AN INDIVIDUAL EVALUATION AND/OR MEDICAL ASSESSMENT

10. TO REPRESENT THE CHILD AT THE IEP CONFERENCES AND TO PARTICIPATE IN THE IEP DEVELOPMENT BY MAKING CONTRIBUTIONS BASED UPON THE SURROGATE PARENT'S INVESTIGATION OF THE CHILD'S EDUCATIONAL NEEDS. FOR INSTANCE, TO DISCUSS THE CHILD'S BEHAVIOR; SPECIAL HABITS; HOW THE CHILD GETS ALONG WITH SIBLINGS AND OTHER CHILDREN; THE CHILD'S LIKES AND DISLIKES; HOW THE CHILD COMPARES IN SIZE WITH OTHER CHILDREN HIS/HER AGE; THE CHILD'S MOTOR DEVELOPMENT; THE CHILD'S SELF-HELP SKILLS. THE SURROGATE PARENT PARTICIPATES ALSO BY GIVING SUGGESTIONS AND RECOMMENDATIONS IN DEFINING EDUCATIONAL GOALS AND OBJECTIVES, AND THE DESIRABLE ULTIMATE OUTCOME FOR THE CHILD; AND BY GIVING OTHER OBSERVATIONS THAT MAY HELP IN DEVELOPING THE CHILD'S INDIVIDUAL EDUCATION PROGRAM

11. TO REPRESENT THE CHILD IN THE EDUCATIONAL COMPONENTS OF THE INDIVIDUAL PROGRAM PLAN (IPP), INDIVIDUAL SERVICE PLAN (ISP) INDIVIDUAL HABILITATION PROGRAM (IHP), INDIVIDUAL WRITTEN REHABILITATION PROGRAM (IWRP), OR INDIVIDUAL TREATMENT PLAN (ITP)

12. TO SIGN THE FIRST PAGE OF THE IEP FORM TO INDICATE ATTENDANCE AT THE MEETING

13. TO SIGN WHERE INDICATED ON THE IEP FORM TO GIVE FORMAL APPROVAL OF THE PROPOSED PLACEMENT OR NOT GIVE APPROVAL OF PLACEMENT IF THE SURROGATE PARENT DOES NOT APPROVE OF THE PLACEMENT

14. TO CALL FOR A NEW EVALUATION OR IEP WHENEVER NECESSARY

15. TO RECEIVE THE CHILD'S SHORT-TERM GOALS AND/OR REPORT CARDS IN ORDER TO MONITOR HIS/HER PROGRESS

16. TO PARTICIPATE IN AN ANNUAL REVIEW OF THE CHILD'S IEP

17. TO NEGOTIATE WITH THE LEA IF THERE IS DISAGREEMENT WITH REGARD TO ANY OF THE ABOVE

18. TO CALL FOR A DUE PROCESS HEARING IF ALL CONCILIATORY AVENUES HAVE NOT BROUGHT ABOUT A RESOLUTION TO A DISAGREEMENT CONCERNING IDENTIFICATION, EVALUATION, OR EDUCATIONAL PLACEMENT OF THE CHILD; OR THE PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION FOR THE CHILD

19. TO REPRESENT THE CHILD AT A DUE PROCESS HEARING AND THROUGHOUT THE APPELLATE PROCEDURES, FOR EXAMPLE:

A. FIRST, TO ATTEMPT TO CONCILIATE DISAGREEMENTS WITH THE SCHOOL BOARD, I.E., TO MEET WITH SCHOOL OFFICIALS AND WORK AT RESOLUTION OF DIFFERENCES BASED ON THE CHILD'S NEEDS -- AS EXPRESSED BY EVALUATORS, TEACHERS, DOCTORS, SPECIAL EDUCATION PROFESSIONALS, ETC. -- AND DETERMINE WHAT CAN BE REASONABLY PROVIDED BY THE SCHOOL SYSTEM AND OTHER AGENCIES

B. TO FOLLOW THE COMPLAINT PROCEDURES AVAILABLE AS A RIGHT TO EXCEPTIONAL CHILDREN IF CONCILIATORY MEETINGS FAIL

C. TO REQUEST IN WRITING A DUE PROCESS HEARING THROUGH THE PARISH SUPERVISOR OF SPECIAL EDUCATION

D. TO MAKE AN ORDERLY PRESENTATION OF FACTS AT THE DUE PROCESS HEARING. IT MAY BE ADVISABLE TO SEEK COUNSEL OR THE HELP OF SOMEONE EXPERIENCED IN DUE PROCESS HEARINGS

E. TO GATHER OR HELP TO GATHER WHATEVER USEFUL DATA, LETTERS, EVALUATIONS, RECORDS, AND OTHER FACTUAL EVIDENCE WOULD AID IN THE PRESENTATION OF THE CHILD'S CASE

F. TO MOBILIZE THE RESOURCE NEEDED FOR A FAIR, ADEQUATE, AND FACTUAL PRESENTATION OF THE CHILD'S CASE

G. TO ABIDE BY THE RULES OUTLINED BY THE HEARING OFFICER

H. TO ABIDE BY THE RECOMMENDATION OF THE HEARING OFFICER, OR

I. TO APPEAL THE CASE TO THE STATE BOARD OF ELEMENTARY AND SECONDARY EDUCATION FOR A REVIEW IF THE SURROGATE PARENT

FEELS THE CHILD IS AGGRIEVED BY THE FINDINGS AND DECISION AT THE HEARING

J. IF THE SURROGATE PARENT FEELS THE CHILD IS AGGRIEVED BY THE FINDINGS AND DECISION OF THE STATE REVIEW, HE/SHE HAS THE RIGHT TO BRING A CIVIL ACTION IN ANY STATE COURT OF COMPETENT JURISDICTION OR IN DISTRICT COURT OF THE UNITED STATES

20. TO PERIODICALLY REPORT TO THE SPP HIS/HER ACTIVITIES RELATING TO THE REPRESENTATION OF THE CHILD

NOTE:

SURROGATE PARENTS ARE RESPONSIBLE AND HAVE AUTHORITY SOLELY WITH REGARD TO THE SPECIAL EDUCATIONAL ASPECTS OF THEIR ASSIGNED CHILD. A SURROGATE PARENT'S AUTHORITY IS LIMITED TO THE EDUCATIONAL PROGRAM AND THE EDUCATIONAL PLACEMENT WITHIN THAT EDUCATIONAL PROGRAM. ALTHOUGH A SURROGATE PARENT MAY BE PRESENT AND PARTICIPATE IN THE STAFFINGS OF AN ITP, ISP, IPP, IHP OR IWRP, ONLY THE EDUCATIONAL ASPECTS (THOSE RELATED SERVICES THAT WOULD AFFECT OR BENEFIT EDUCATION) ARE WITHIN THE RANGE OF RESPONSIBILITY OF THE SURROGATE PARENT. AT NO TIME SHOULD A SURROGATE PARENT AUTHORIZE MEDICAL TREATMENT PLANS. MOREOVER, RESIDENTIAL PLACEMENT IS DECIDED BY THE OFFICE OF HUMAN DEVELOPMENT (OHD) THROUGH THE REGIONAL REVIEW COMMITTEE OF THE OHD CLIENT PLACEMENT SYSTEM. RESIDENTIAL PLACEMENT MAY BE CONSIDERED FOR THOSE STUDENTS WHOSE HUMAN SERVICE NEEDS REQUIRE A TWENTY-FOUR HOUR PROGRAM OF ACTIVE TREATMENT CARE, AND/OR HABILITATION.

THE SURROGATE PARENT'S INPUT IS REQUIRED AT THE TIME THE CHILD'S IEP IS DEVELOPED, WHETHER IT IS BEFORE OR AFTER RESIDENTIAL PLACEMENT.

THE CHILD'S EDUCATIONAL PLACEMENT MAY BE WITHIN THE RESIDENTIAL FACILITY IF

1. THE TYPE OF EDUCATIONAL PROGRAM DESCRIBED IN THE FINALIZED IEP CAN BE PROVIDED AT THE RESIDENTIAL FACILITY, AND
2. IF IT IS JOINTLY AGREED AT THE IEP CONFERENCE THAT SUCH AN EDUCATIONAL PLACEMENT WOULD BE APPROPRIATE FOR THE STUDENT AND WOULD BE WITHIN THE LEAST RESTRICTIVE ENVIRONMENT

THE CHILD'S EDUCATIONAL PLACEMENT MAY BE OUTSIDE OF A RESIDENTIAL FACILITY IF

1. THE TYPE OF EDUCATIONAL PROGRAM DESCRIBED IN THE FINALIZED IEP CANNOT BE PROVIDED AT THE RESIDENTIAL FACILITY, AND/OR
2. THE EDUCATION DESCRIBED IN THE IEP CAN BE PROVIDED IN A REGULAR SCHOOL SETTING, WITH SUPPORT SERVICES, AND
3. IT IS JOINTLY AGREED AT THE IEP CONFERENCE THAT SUCH AN EDUCATIONAL PLACEMENT WOULD BE APPROPRIATE FOR THE CHILD AND WOULD BE THE LEAST RESTRICTIVE ENVIRONMENT

SCREENING

* FILL OUT AN APPLICATION
* CONDUCT PERSONAL INTERVIEW

TRAINING

* ATTEND AT LEAST ONE TRAINING SEMINAR
* CONTACT SPP FOR FOLLOW-UP TRAINING OR ASSISTANCE

MATCHING

* PERSONAL INTERVIEW
* LEA APPOINTMENT LETTER

FULL AND EFFECTIVE NOTICE

1. IN WRITING, UNDERSTANDABLE TO THE GENERAL PUBLIC

2. MUST REACH PARENTS BEFORE AN EVALUATION, PROPOSED CHANGE OR REFUSAL TO CHANGE THE PROGRAM OR PLACEMENT OF A CHILD

3. A DESCRIPTION OF THE PROPOSED OR REFUSED ACTION

4. EACH EVALUATION PROCEDURE, TEST, RECORD OR REPORT USED AS BASIS OF PROPOSED ACTION

5. EMPLOYEE(S) OF THE SCHOOL BOARD TO BE CONTACTED

6. ALL PROCEDURAL SAFEGUARDS AVAILABLE TO THE PARENT

7. THE RIGHT TO CONFIDENTIALITY OF RECORDS

8. CONSEQUENCE OF GIVING OR NOT GIVING CONSENT

CONSENT

1. CONSENT, IF GIVEN, MUST BE GIVEN FREELY, AND VOLUNTARILY

2. AFTER PARENTS UNDERSTAND ALL CONSEQUENCES OF PROPOSED ACTION

3. PARENTS MUST KNOW THAT CONSENT CAN BE REVOKED IN WRITING AT ANY TIME

CHILD'S RIGHTS

WITH REGARD TO

1. IDENTIFICATION

2. EVALUATION
   INDEPENDENT EVALUATION

3. INDIVIDUAL EDUCATION PROGRAM

4. ACCESS TO AND CONFIDENTIALITY OF RECORDS

5. PRESENT COMPLAINTS

6. EDUCATIONAL STATUS DURING A CONTROVERSY

7. FULL AND EFFECTIVE NOTICE AND FORMAL PARENTAL APPROVAL (CONSENT)

8. SURROGATE PARENTS

9. IMPARTIAL HEARINGS AND ADMINISTRATIVE REMEDIES

DUE PROCESS

- CONCILIATION
  - LOCAL

- ADMINISTRATIVE REMEDIES
  - STATE
  - FEDERAL

- DUE PROCESS HEARING
  - LOCAL
  - STATE
  - CIVIL COURT

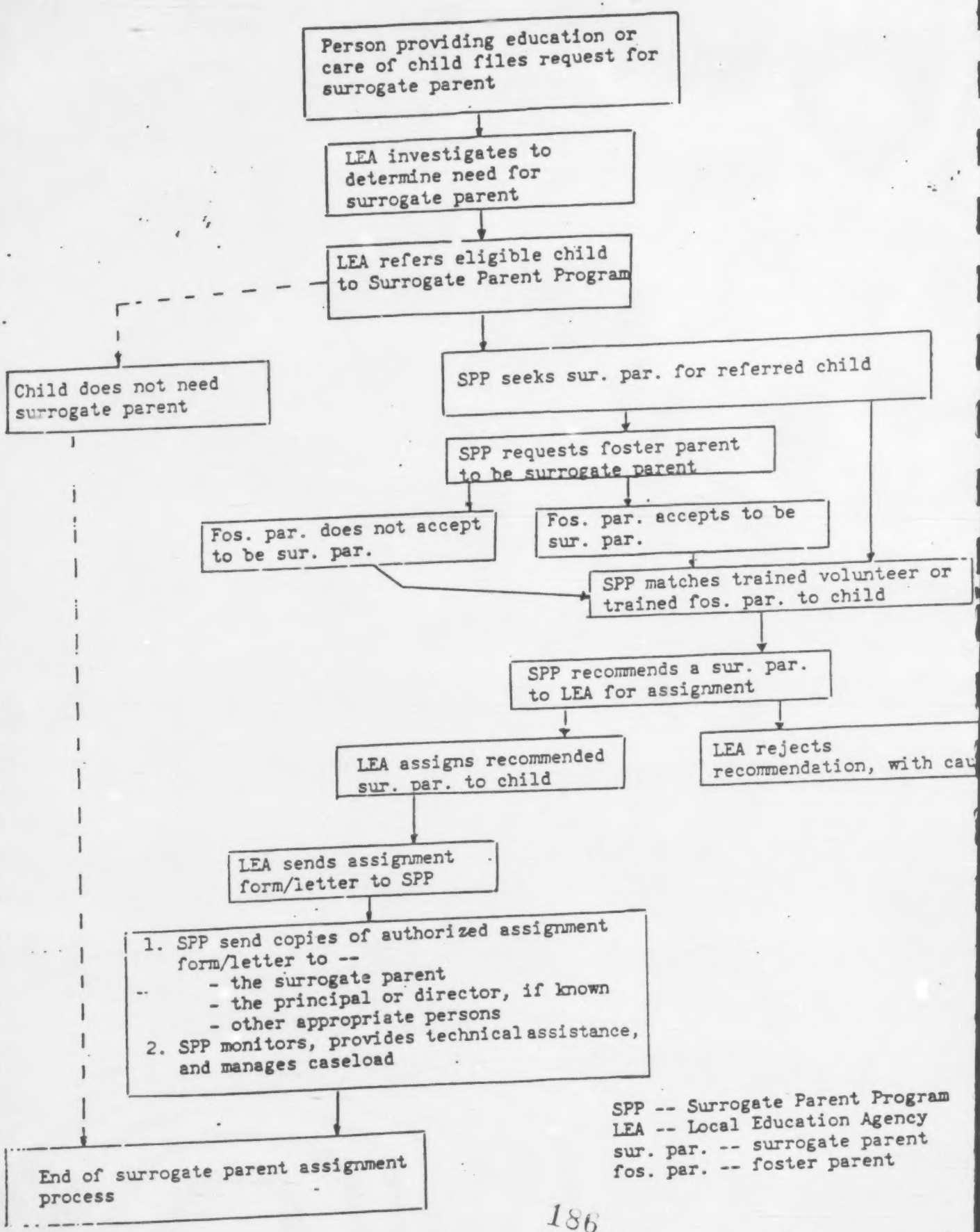
APPENDIX

-NOTE-

Some of the material in this appendix is appropriate for inclusion in the Surrogate Parent Training Manual. The manual can be duplicated and distributed to participants of the training seminar of workshop.

Other items that could be added which would be very helpful to surrogate parents:

1. A list of the names, addresses and phone numbers of school board members
2. A list of the names addresses and phone numbers of key administrative personnel in the local school board's division of special education (e.g., the parish supervisor or director of special education, the child search coordinator, the evaluation coordinator, etc.)
3. A list of the names and addresses of independent evaluators
4. A list of names, addresses and phone numbers of community groups and parent or advocacy organizations that would have information about special education procedures, and/or
5. Sources of free or inexpensive legal assistance


Person providing education or care of child files request for surrogate parent
LEA investigates to determine need for surrogate parent
LEA refers eligible child to Surrogate Parent Program
Child does not need surrogate parent
SPP seeks sur. par. for referred child
SPP requests foster parent to be surrogate parent
Fos. par. does not accept to be sur. par.
Fos. par. accepts to be sur. par.
SPP matches trained volunteer or trained fos. par. to child
SPP recommends a sur. par. to LEA for assignment
LEA assigns recommended sur. par. to child
LEA rejects recommendation, with cau
LEA sends assignment form/letter to SPP
1. SPP send copies of authorized assignment form/letter to --
- the surrogate parent
- the principal or director, if known
- other appropriate persons
2. SPP monitors, provides technical assistance, and manages caseload
End of surrogate parent assignment process
SPP -- Surrogate Parent Program
LEA -- Local Education Agency
sur. par. -- surrogate parent
fos. par. -- foster parent

(Sample Interagency Agreement)

In order to implement the procedural safeguard described in § 474 of the regulations implementing Louisiana's Act 754, which state that:

(a) Whenever a school board after repeated and reasonable efforts is unable to identify and locate a parent of an exceptional child, or of a child suspected to be an exceptional child, or whenever a child is a ward of a court, the school board must assign an individual to act as surrogate parent who may represent the child in all matters relating to the identification, individual evaluation and educational placement of the child and the provision of an appropriate, free public education.

(b) A method for determining whether a child needs a surrogate parent and for assigning a surrogate parent must be developed and implemented by each school board in a manner which insures that:

(1) A person assigned as a surrogate parent has no interest that conflicts with the interests of the child, and is not a present or past employee of the school board involved in the education or care of the child; and

(2) The person assigned has knowledge and skills that insure adequate representation of the child.

(c) Payment of fees for services as a surrogate parent does not, in and of itself, render a person an employee.

The _____ Parish School Board and the Surrogate Parent Program (SPP) of (Parish or Region) _____ enter into the following agreement:

1. The Surrogate Parent Program will:

a. confirm whether or not a child is in need of surrogate parent assignment, in conjunction with referral sources, as described in § 474 of the state regulations,
b. recruit and screen volunteers and foster parents who may become surrogates,
c. train volunteers and foster parents so that they may have the necessary knowledge and skills to adequately represent a child throughout the special educational process,
d. match trained volunteers or foster parents with referred, eligible, children,
e. submit a "match letter" to the _____ Parish School Board, Division of Special Education indicating the recommended surrogate parent,

(Sample Interagency Agreement
continued)

f. monitor the assigned surrogate parents and provided them with technical assistance, and,

g. manager the caseload of all refer red and matched children.

2. The _____ Parish School Board agrees to authorize the superintendent to take action on the following--

a. to attempt to locate the child's parent(s) and determine whether a child is eligible for surrogate parent assignment,
b. in need of surrogate parent assignment to the Child Search Coordinator,
c. to instruct the Child Search Coordinator to refer eligible children to the Surrogate Parent Program,
d. to authorize or reject the person recommended as surrogate parent by the Surrogate Parent Program,
e. to show case for rejecting a surrogate parent, as per § 474 of the regulations for Act 754,
f. to return the "match letter" assigning the recommended surrogate parent to the Program with the signature of the Superintendent or his designee,
g. to accord the dutifully assigned surrogate parent with the rights that would be accorded a biological parent in all matters relating to the identification, individual evaluation, and educational placement of the child and the provision of an appropriate, free public education,
h. to recognize as qualified candidates only those persons screened, trained and recommended by the Surrogate Parent Program.

3. This agreement is in force between the _____ Parish School Board and the Surrogate Parent Program of _(Parish or Region)_ from _(date)_ through _(date)_.

4. All persons assigned as surrogate parents under this agreement shall continue to be recongnized in their capacity as surrogate parents of their assigned children by the _____ Parish School Board for as long as the children continue to be in need of a surrogate parent, for as long as the persons continue to represent the child adequately (as determined by this school board; or, in the event of a dispute, as determined by an independent hearing officer), or for as long as the persons choose to continue being the child's surrogate parent.

_____ Surrogate Parent Program Director

_____ President, School Board

_____ Superintendent of Education

_____ Supervisor of Special Education

CHILD:

Name

Address

City, State, Zip

Phone: (Area) number

Date of Birth

Race or Ethnic Background

Exceptionality

Person with whom child is living/Relationship

This Space for Office Use Only

S/P: Assigned:

Name

Address

City, State, Zip

Home Phone: (Area) number

Business Phone: (Area) number

F/P_____ Vol._____ Other_____

****

LEGAL CUSTODIAN:**

Check one:

_____Foster Care
_____Off. of Youth Services
_____None (Explain on reverse side)

Parish

Address

City, State, Zip

Phone: (Area) number

Caseworker's Name

**PLEASE NOTE: CHILD IS ELIGIBLE TO HAVE A SURROGATE PARENT ASSIGNED IF S/HE IS IN THE CUSTODY OF THE STATE. CASES WHERE THERE IS NO ACTING PARENT AVILABLE OR KNOWN WILL BE CONSIDERED INDIVIDUALLY.

EDUCATION:

Responsible Local Education Agency (Paris

School or Institution Child Attends

Address of School or Institution

City, State, Zip

Phone: (Area) number

/PRINCIPAL

Contact/Position

Contact/Position

Contact/Position

Referral Form Continued

REFERRAL SOURCE:

Name

Agency Position

Phone: (Area) number

Your suggestion for a surrogate parent

Relationship to Child Phone: (Area) number

YOUR SIGNATURE:

MAIL TO SURROGATE PARENT PROGRAM, ADDRESS

Assignment of a surrogate parent to a child whose parents have "severed contact" -- and are thereby "unavailable" -- may take place only under the following circumstances:

1. If there is an attorney general's opinion on this issue,
2. If the parent is not and has not been in contact with the child and has not demonstrated interest or involvement in the child's educational needs over an extended period of time (months, years),
3. If the parent is asked in writing for authorization to assign a surrogate parent to his/her child,
4. If the parent agrees to hold the surrogate parent harmless with regard to the conscientious excerise of his/her responsibilities as a surrogate parent, and
5. If the parent receives full and effective notice that his/her consent to the assignment of a surrogate parent is revocable and that should the parent wish to become actively involved in representing his/her child in the special education process, the agreement with the appointed surrogate parent may be terminated.

(Sample letter of biological parent or guardian
authorizing the appointment of a surrogate parent)

Project Coordinator
Surrogate Parent Program

Dear

Due to the great difficulty in traveling to see my child, _____

and (other reasons if applicable) _____

_____

_____

I cannot be available for the necessary appointment in the educational planning for my child. I therefore authorize the Surrogate Parent Program and _____ Parish School Board to appoint a surrogate parent. This person will act as my substitute in representing _____ in the areas of identification, evaluation, and the provision of a free appropriate special education.

_____ _____
Signature Relationship to Child

_____ _____
Date

_____
Address

SURROGATE PARENT APPLICATION

_____
DATE OF TRAINING

NAME: _____ HOME PHONE: _____

ADDRESS: _____ BUSINESS PHONE: _____

_____ DATE OF BIRTH: _____
City / State Zip

RACE OR
ETHNIC BACKGROUND: _____ SEX: F _____ M _____

OCCUPATION: _____ FOSTER PARENT? YES _____
Give child's name
NO _____

Where did you hear about this program? _____

School or institution in which you are interested? _____

Please state any educational or social service agencies for which you have worked.
Agency _____ Parish _____ Position held _____ Public? Yes ____ No ____
Agency _____ Parish _____ Position held _____ Public? Yes ____ No ____

Have you received Surrogate Parent training? Yes (date) _____ Where? _____ No ____
If no, a three-hour training workshop is required of all surrogate parents.
Would you prefer _____ Day _____ Parish
_____ Evening _____ Location

What is your experience with children or youth? _____

_____

List three (3) persons who know you well:

	Name	Mailing Address	Zip Code
___ ___	1.		
___ ___	2.		
___ ___	3.		

List your membership in parent organizations, and hobbies, interests:

1. _____ 2. _____ 3. _____

4. _____ 5. _____ 6. _____

Please give us any special reasons why you want to be a surrogate parent. (Include child's name if relevant.) _____

_____

_____

In order to provide consistent support for the child, you will be asked to serve for not less than twelve (12) months from date of appointment.

We will call you in advance to describe the child and receive your consent to be matched to that child.

AGREEMENT

If I consent to be a surrogate parent, I promise to

(a) keep all information I may receive about the child in strictest confidence, while serving and in the future;
(b) keep the child's caseworker and the Surrogate Parent Program informed of all my activities as surrogate parent;
(c) make every effort to serve for twelve months.

Please send completed form to:
Surrogate Parent Program
(Address)

Signature _____

Date _____

Sample Request for Reference on a Volunteer

Re: (Surrogate Parent Applicant's Name)

Dear: (Reference Name)

The person named above has volunteered to be a surrogate parent for an exceptional child who has no parental representation. This applicant has given your name as a reference. You can help in our efforts by answering a few questions for us. Your answers will be kept confidential.

A Surrogate Parent acts as an educational advocate for a child who requires special education. The position requires making sound decisions about the child's educational needs, writing letters, and attending school meetings, much like a natural parent would. It is an important and valuable responsibility.

Our agency is under contract with the Louisiana State Department of Education and local school board to see that only active, involved, well-trained individuals become surrogate parents.

WON'T YOU HELP? Your speedy reply will help us all to help these children as soon as possible.

Thank you.

Sincerely,

Project Coordinator

Enclosure

Reference Form

VOLUNTEER_____

REFERENCE_____

Do you feel this person has an honest desire to help children?_____

_____

_____

Does this person have the time to take on the added responsibility?_____

_____

_____

Do you feel this person could be firm but tactful in dealing with others?_____

_____

_____

Would this person be persistent, and see the child through the entire process during the year in which he or she has volunteered?_____

_____

Do you feel this person would use sound judgement in making decisions about a child's educational needs?_____

_____

What experience does this person have with children, especially with exceptional children?_____

_____

Additional comments:_____

_____

_____

Sample Letter to Invite a Foster Parent to be a Surrogate Parent

Mr./Mrs. _____
_____
_____

Re: (foster child)

Dear (foster parent):

In speaking to (your foster care worker), I learned that you may wish to be a surrogate parent for (your foster child). Right now is a good time because we are planning a training session in your area.

Being a surrogate parent would enable you to have certain legal rights to make decisions about this child's education that, as a foster parent, you do not have.

Since someone must be appointed as surrogate parent, we wanted to give you the first opportunity. Foster children should have as few adults involved in their care as possible to avoid confusing them.

You probably have many questions about the rights and responsibilities of a surrogate parent. Enclosed is introductory material, an application, and an invitation to a training session. All prospective surrogate parents must attend at least one training session.

Please: 1. Send us your application, and
2. Try to attend one of the training sessions in your area.

You can give us your final decision after the training if you wish to be the surrogate parent. Should you decide to serve, this office will be available to you for advice and information about the special education process.

I am looking forward to seeing you at the next training session! Please call me if you have any questions.

Sincerely,

Project Coordinator
Surrogate Parent Program

Enclosures

(Sample letter of recommendation by caseworker for a foster parent being considered as a surrogate parent)

Surrogate Parent Program

To: Surrogate Parent Program

This is to acknowledge that _____, _____ Parish, is known to this office, has been screened as a foster parent, and considered suitable by us to act as a surrogate parent for an exceptional child as defined in § 121a. 514 of the federal regulations to Public Law 94-142.

_____
Caseworker

_____
Supervisor

SURROGATE PARENT PROGRAM

XYZ SCHOOL BOARD

TRAINING CERTIFICATE

(Sample)

THIS IS TO CERTIFY THAT _____

HAS COMPLETED A THREE-HOUR SURROGATE PARENT TRAINING WORKSHOP. THIS TRAINING COVERED THE FOLLOWING TOPICS:

I. Public Law 94:142 and Louisiana Act 754

II. Handicapping conditions, Special Education and Related Services

III. Evaluation, Individual Education Programs and Placement

IV. Children's Rights with regard to Special Education

V. Role, Rights, and Responsibilities of the Surrogate Parent

VI. Conciliation, complaint procedures, and due process

_____ _____

19 Date of Training Surrogate Parent Program Director

20

Sample Appointment Letter

APPOINTMENT OF SURROGATE PARENT

TO: Supervisor of Special Education
_____ Parish School Board DATE: _____

or

Principal
_____ SSD No. 1 Facility

FROM: Surrogate Parent Program

RE: Surrogate Parent Appointment of _____,

(_____)
address and phone

to _____, (child), _____.
date of birth

The above-named child, who is under the jurisdiction of your school board (or: SSD No. 1) has been identified as a child needing a surrogate parent, as defined by P.L. 94-142 and Act 754.

The above-named adult has been screened by the Surrogate Parent Program, and has received training in areas related to the special education process, and the role of the surrogate parent. Appointed surrogate parents are to be treated in all regards as would biological parents in all matters relating to the identification, evaluation, educational placement, and the provision of a free appropriate education.

AUTHORIZATION

As Supervisor of Special Education for the parish responsible for the special education of the above-mentioned child (or: As Director of Special School District No. 1 which is responsible for the special education of the above-named child), I hereby assign the above-mentioned adult to serve as surrogate parent for this child, with all the rights and responsibilities thereof.

_____ _____
School Board Designee Date
e.g. Superintendent, or Supervisor
of Special Education, or
Special School District No. 1 Director of Designee

WHERE DO I BEGIN?

ACTION

Through the school's or the child's caseworker's records...

"I did!" The date was...

1. READ the results from all competent authority evaluations that have been made on your child. (You are entitled to a copy if you ask for it.) _____

2. REVIEW the "cumulative folder" of school records. Ask your child's teacher or school counselor to help you understand, if necessary. In this folder, you should find formal and informal assessments of the child's work such as:

   a. standardized test results
   b. grades
   c. teachers' comments (very important)
   d. background information _____

3. ASK for samples of the child's work. _____

4. TALK to the child. What are the child's needs, goals, strengths, weaknesses? _____

5. GO to the child's class and observe. Make notes about what you see. You will need the principal's permission to do these.

6. REQUEST. If questions arise about the child's abilities, request that the child receive tests to identify strengths, weaknesses, achievement, creativity. _____

Name of Child: _____

SURROGATE PARENT'S SELF STUDY

Please check the appropriate answer:

	YES	NO	DOES NOT APPLY	DATE OF EVENT	CONTACT NAME IF APPLICABLE
1. You have visited the child assigned to you.					
2. You have contacted the child's teacher.					
3. You have met the school principal.					
4. You have given your permission (signature) for individual evaluation or reevaluation of your child.					
5. The evaluation has been interpreted to you by a member of the Team in understandable terms.					
6. You have received notice of an I.E.P. planning conference.					
7. You have requested a reconvening of the I.E.P. committee.					
8. You have attended the I.E.P. committee conference to develop an I.E.P.					
9. You have accepted (signature) the I.E.P.					
10. You believe the I.E.P. describes a plan that would meet the needs of your child.					
11. You have approved your child's educational placement.					
12. The I.E.P. committee was reconvened to find agreement.					

	YES	NO	DOES NOT APPLY	DATE OF EVENT	CONTACT NAME IF APPLICABLE
The provision of related services is necessary for your child and was recommended by you at the I.E.P. conference.					
14. You have requested a conciliation conference to find agreement on your child's I.E.P.					
15. The hearings were successful in reaching an agreement.					
16. You have log records of each visit to your child and to his/her school.					
17. The school system has been helpful to you.					
18. Assistance from community agencies has been requested by you.					
19. The community agencies have been helpful and cooperative.					
20. You have found that differences could be settled by discussion with school professionals.					
21. You have at times been uncertain as to your rights as a surrogate.					
22. You have considered legal assistance.					
23. You feel that the Surrogate Parent Program has provided you with helpful information in understanding your child's educational needs.					
24. You feel that you need more assistance.					
25. The follow-up meetings have been helpful to you.					

SURROGATE PARENT LOG

N

Place: _____ Date: _____

Purpose: _____

Activities: _____

Plans: _____

SURROGATE PARENT LOG

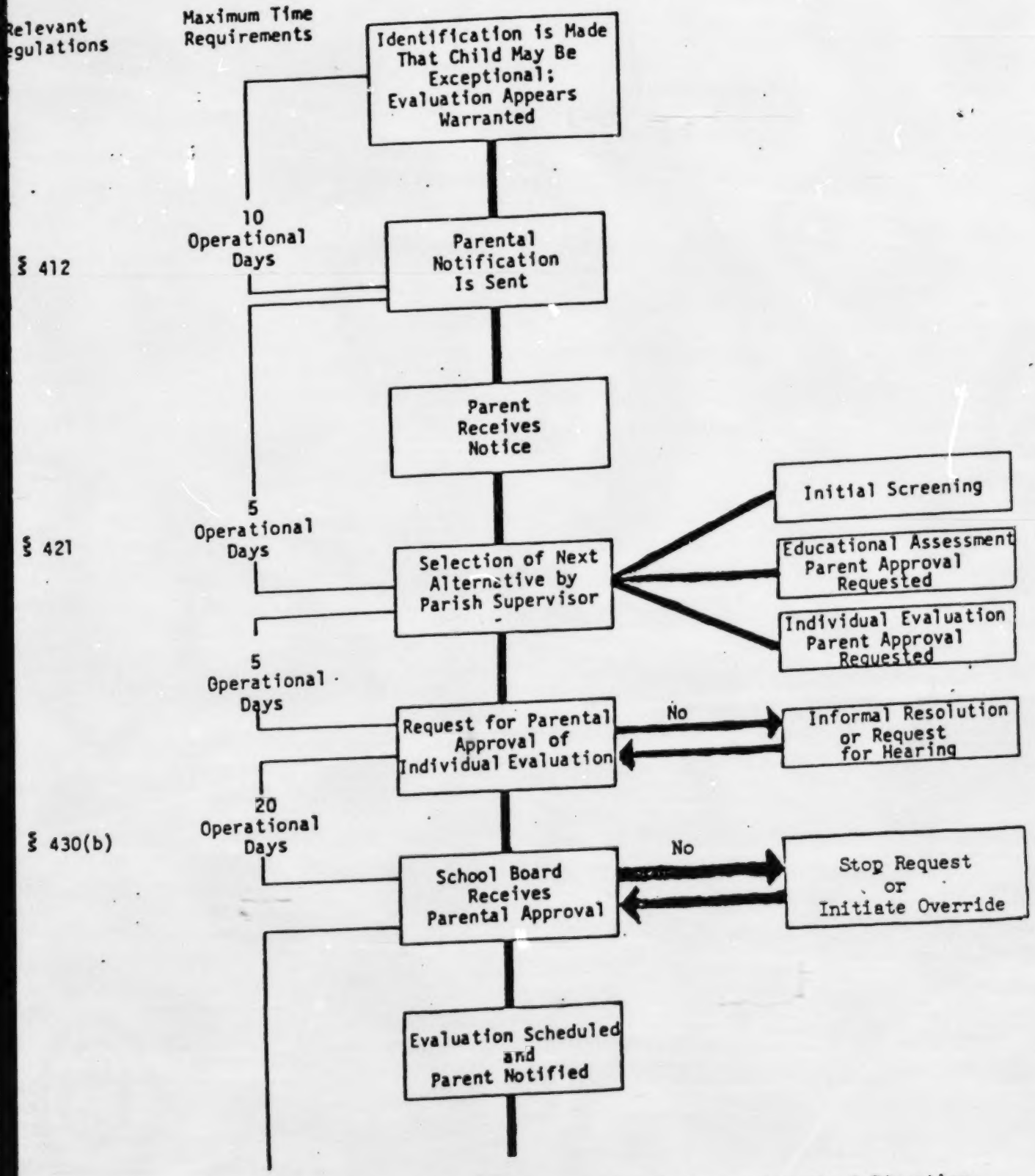
Place: _____ Date: _____

Purpose: _____

Activities: _____

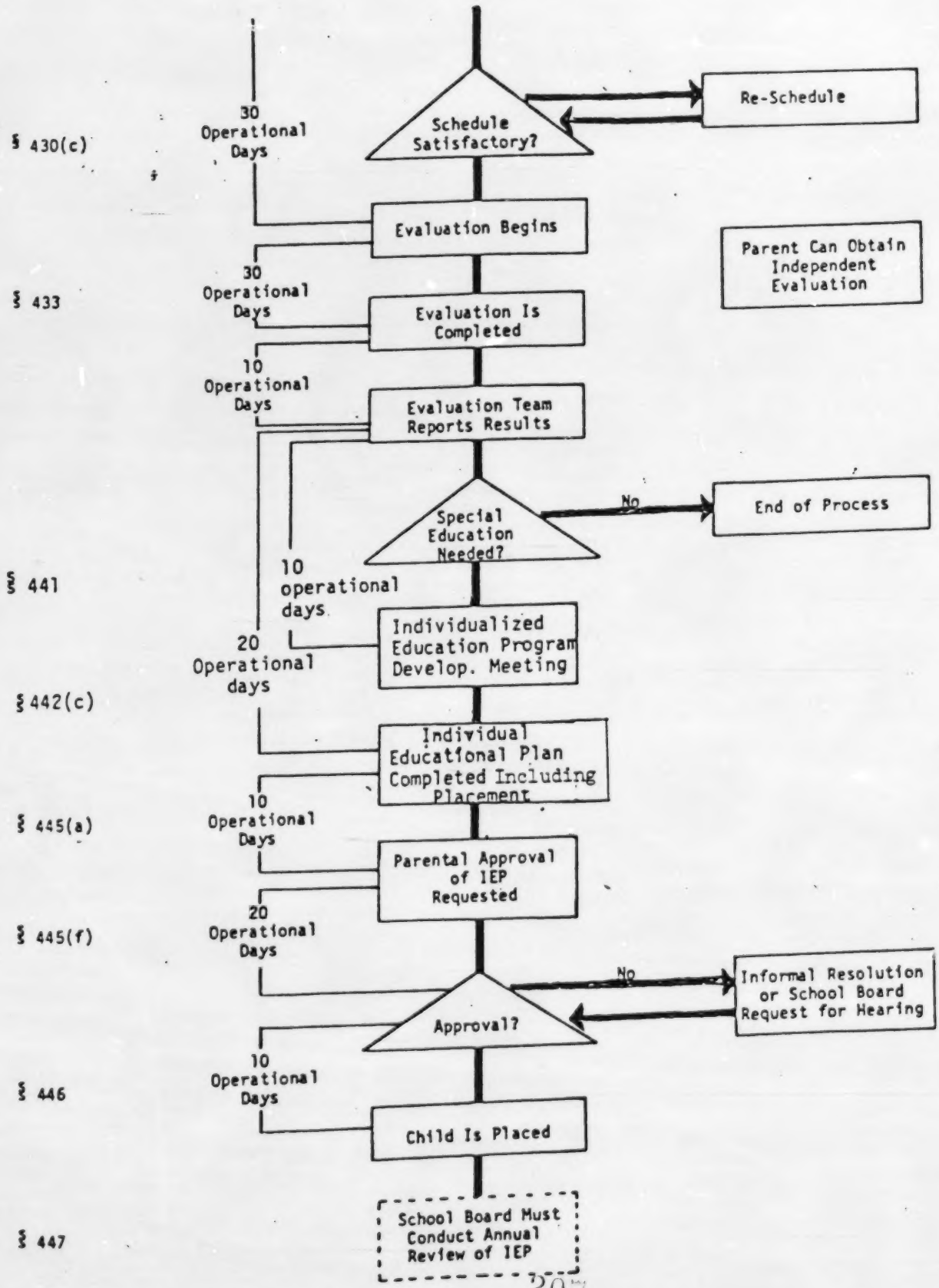
Plans: _____

EVALUATION AND PLACEMENT PROGRESSION CHART *

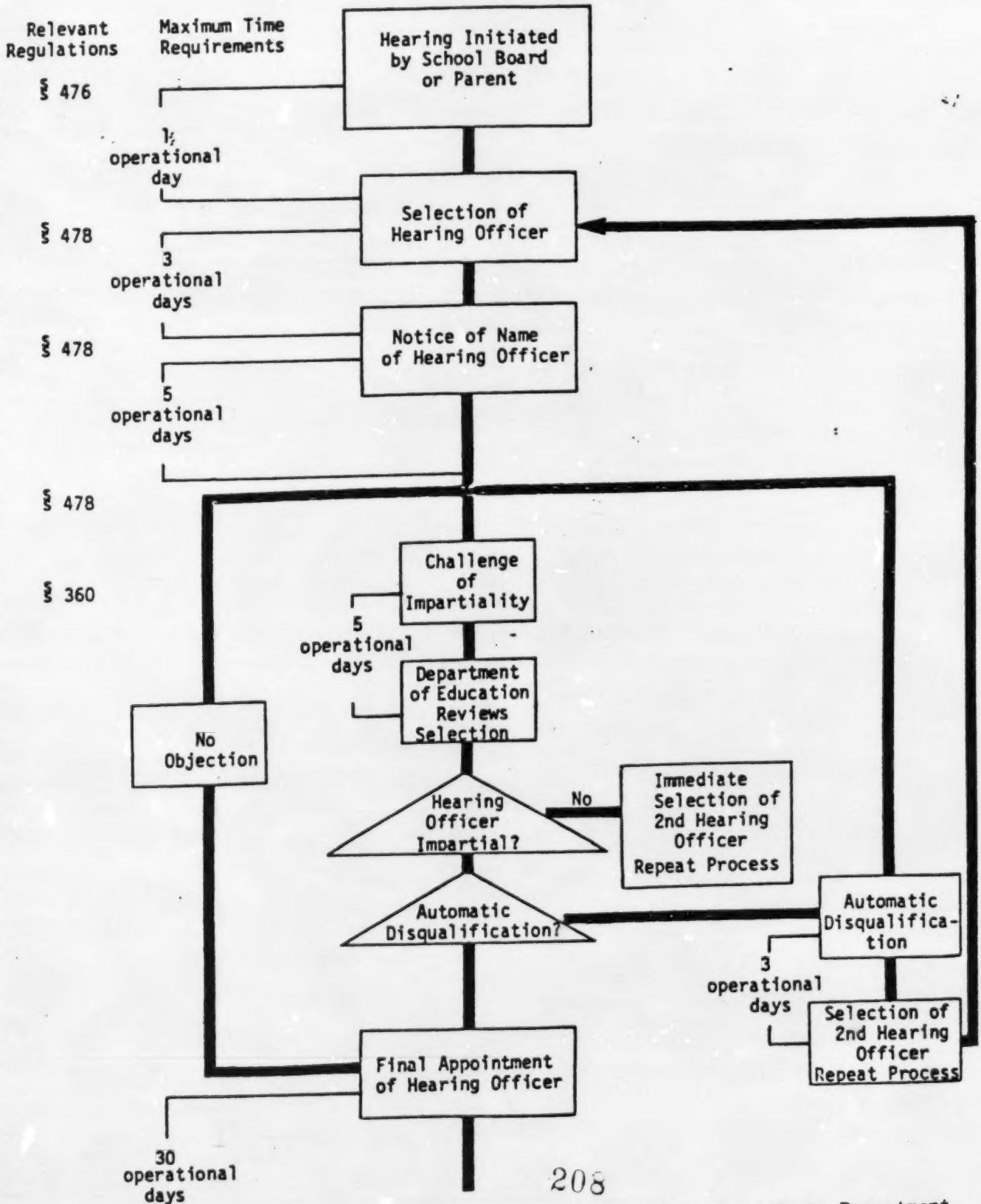


*Taken from the "Hearing Officer's Manual," Louisiana State Department of Education, Division of Special Education.

EVALUATION AND PLACEMENT PROGRESSION CHART (continued)

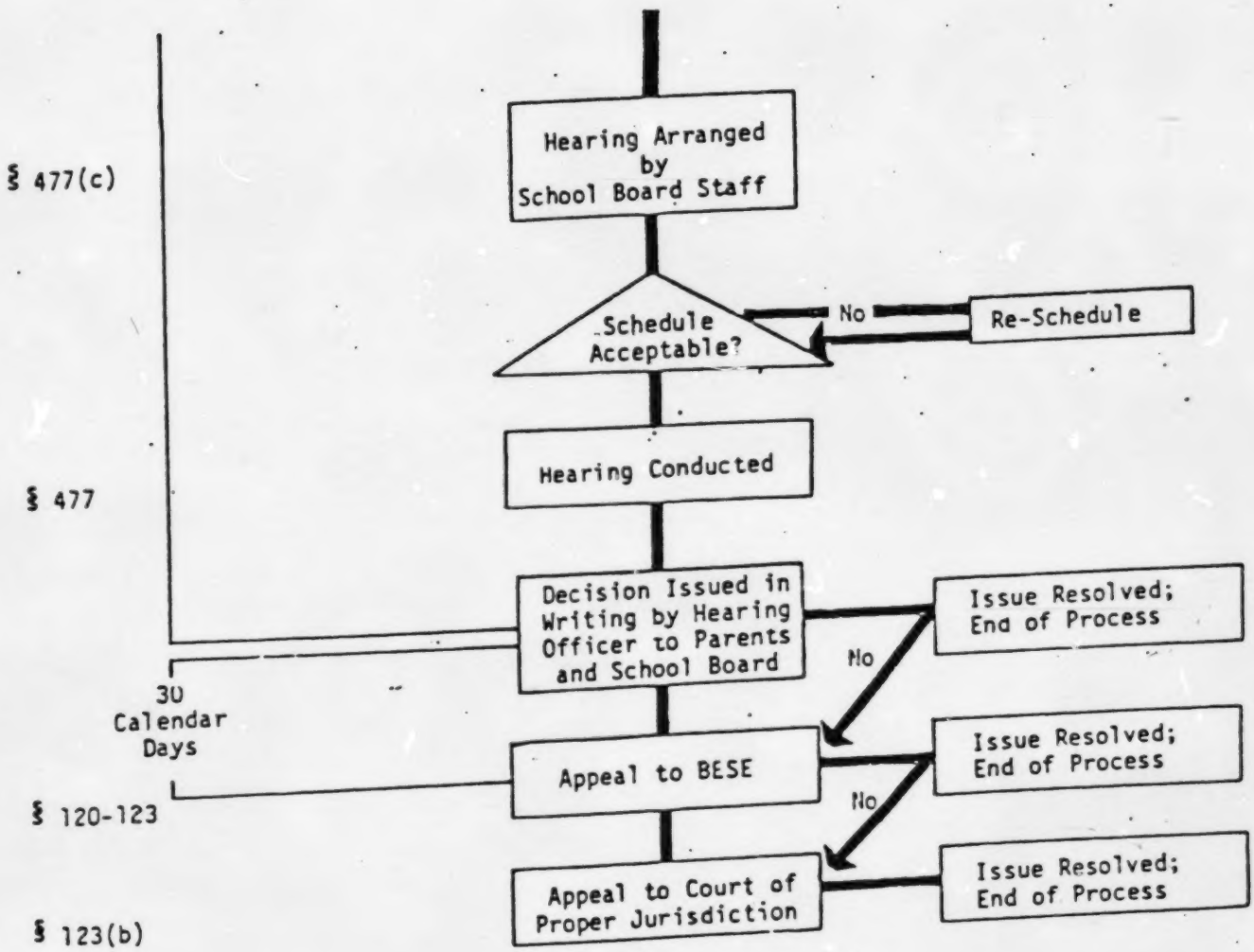


HEARING AND APPEAL PROGRE CHART*



*Taken from the "Hearing Officer's Manual," Louisiana State Department of Education, Division of Special Education.

HEARING AND APPEAL PROGRESSION CHART (continued)



(SAMPLE LETTER)

(PARENT REQUEST HEARING WITH LOCAL SCHOOL DISTRICT)

_____, Superintendent
_____Parish School District
_____, Louisiana

Re: Billy Budd
_____Public School

Dear Superintendent _____:

As the parent/surrogate of Billy Budd, I wish to request a due process hearing before an impartial hearing officer. My reason for requesting this hearing is (fill in reasons).

I request that this due process hearing be held subject to the due process safeguards of Public Law 94-142. Please notify me well in advance of the time and place of the hearing.

Sincerely yours,

Signed Parent/Surrogate

(SAMPLE LETTER)

(PARENT REQUEST REVIEW OF LOCAL HEARING)

_____, Director
The State Board of Elementary and Secondary Education
P. O. Box 44064
Baton Rouge, Louisiana

Re: Billy Budd
_____School
Hearing Decision #0000

Dear _____:

As the parent/surrogate parent of Billy Budd, I wish to request that you conduct a review of the hearing decision dated _____, _____ in the case of Billy Budd vs. XYZ Parish School Board. I further request that the hearing be held subject to the due process procedures of Public Law 94-142.

I understand that you will issue a written decision to me after your review.

Sincerely yours,

Signed Parent/Surrogate

LEA NOTICE OF THE FILING OF A REQUEST FOR A G

(This letter is sent to surrogate/parent when local school district is filing for a hearing.)

Originator: Special Education Supervisor

Purpose: To inform the parents that the local education agency has filed for a hearing in response to a parent's refusal to permit an evaluation or placement or in response to a disagreement with the proposed education plan.

Date: _____

Dear Parent:

Since we have been unable to reach agreement on the proposed evaluation (educational placement) of your child, this agency has today filed a request for a hearing before an impartial hearing officer. It is hoped that this hearing will enable a fair and speedy resolution of our differences.

You have the right to an independent evaluation of your child by a qualified examiner prior to this hearing, or a hearing officer may request an evaluation of your child at the time of the hearing. Additionally, you have the right to be represented at the hearing by any person or persons of your choice. You are entitled to review and photocopy all of your child's school files and records. Please read the enclosed information relative to this procedure.

A description of the hearing procedure and a list of your rights relative to the hearing are enclosed. Should you have any questions or concerns, please feel free to contact me.

We are looking forward to settling this quickly so that we are all assured that your child is receiving an appropriate education.

Sincerely yours,

_____

al Education Supervisor

ures

SURROGATE PARENT PROGRAM
(Sample)

Request Termination of Surrogate Parent Assignment

Child's Name: _____ Date: _____

Surrogate Parent's Name: _____

I hereby request that this surrogate parent assignment be terminated for the following reason(s); please check next to appropriate number(s).

_____1. This individual is now 18 years of age and is able to exercise his/her own rights and responsibilities, heretofore exercised by the parent/surrogate.

_____2. This child is no longer in custody of _____ (last legal custodian).

She/he is now in the custody of _____ (legal custodian)

_____ (position/relationship) as of _____ (date).

_____3. This child has been placed outside (Parish or Region) and is living

_____ (new placement)

_____ (address), _____ (city) _____ (state) _____ (zip code)

and needs a surrogate parent assigned there.

_____4. Surrogate Parent is to be replaced. Please explain. _____

_____

_____

_____5. Other (please explain) _____

_____

_____

In some cases, the surrogate parent may be retained as a special education advisor. Is that desirable? Yes_____ No_____

Signature _____

Name (print) _____

Position _____

Agency _____

This match was authorized on _____ (date). As Supervisor of Specia

Education for the parish responsible for the above mentioned child, I hereby aurhor the termination of this surrogate parent appointment.

_____
Signature

_____
Supervisor of Special Educat

_____
Parish